



**MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR AGRICULTURE**

Development of Agriculture Technology Innovation Centres (DATIC)

**NATIONAL COMPETITIVE BIDDING, INSTRUCTION  
TO TENDERERS, CONDITIONS OF CONTRACT,  
SPECIFICATIONS & BILLS OF QUANTITIES**

TENDER NUMBER : **MOALD/SDA/ENG/DATIC/48/2024-2025**

TENDER NAME : **CONSTRUCTION OF BULLA CADEY IRRIGATION  
SCHEME PHASE 1 IN GARISSA TOWN  
CONSTITUENCY, GARISSA COUNTY**

ISSUED ON : **03<sup>RD</sup> JUNE, 2025**

SUBMISSION DEADLINE : **18<sup>TH</sup> JUNE, 2025**

PROCURING ENTITY : **MINISTRY OF AGRICULTURE AND LIVESTOCK  
DEVELOPMENT  
STATE DEPARTMENT FOR AGRICULTURE  
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## **SPECIFIC PROCUREMENT NOTICE**



### **MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT STATE DEPARTMENT FOR AGRICULTURE**

Development of Agriculture Technology Innovation Centres (DATIC)

#### **ADVERTISEMENT**

Date: **03<sup>rd</sup> June, 2025**

### **CONSTRUCTION OF BULLA CADEY IRRIGATION SCHEME PHASE 1 IN GARISSA TOWN CONSTITUENCY, GARISSA COUNTY**

1. The Ministry of Agriculture and Livestock Development has received funds from the Government of Kenya and intends to utilize the same towards development of infrastructure under Development of Agriculture Technology Innovation Centres (DATIC)
2. The Ministry of Agriculture and Livestock Development now invites sealed tenders from eligible tenderers for the works as shown in the table below:

**Table 1: Tenders**

<b>S/No.</b>	<b>Tender No.</b>	<b>Tender Description</b>	<b>Bid Security (Kes)</b>
1.	MOALD/SDA/ENG/DATIC/32/2024-2025	Desilting of Kivuno Dam Phase 1 in Kipkelion East Constituency, Kericho County	935,000
2.	MOALD/SDA/ENG/DATIC/33/2024-2025	Drilling and Equipping of Gunane Irrigation Solar Powered Borehole in Tarbaj Constituency, Garissa	380,000

<b>S/No.</b>	<b>Tender No.</b>	<b>Tender Description</b>	<b>Bid Security (Kes)</b>
		County	
3.	MOALD/SDA/ENG/DATIC/34/2024-2025	Rehabilitation of Arap Kelelyo Dam in Kipkelion West Constituency, Kericho County	650,000
4.	MOALD/SDA/ENG/DATIC/35/2024-2025	Rehabilitation of Tunnel Dam in Kipkelion West Constituency, Kericho County	870,000
5.	MOALD/SDA/ENG/DATIC/36/2024-2025	Drilling and Equipping of Ndeu Primary School Irrigation Solar Powered Borehole in Lamu west Constituency, Lamu County	380,000
6.	MOALD/SDA/ENG/DATIC/37/2024-2025	Drilling and Equipping of Mukui Community Grounds Irrigation Solar Powered Borehole in Mathioya Constituency, Muranga County	380,000
7.	MOALD/SDA/ENG/DATIC/38/2024-2025	Drilling and Equipping of Nyangiti Community Grounds Irrigation Solar Powered Borehole in Mathioya Constituency, Muranga County	380,000
8.	MOALD/SDA/ENG/DATIC/39/2024-2025	Drilling and Equipping of Gituti Community Grounds Irrigation Solar Powered Borehole in Mathioya Constituency, Muranga County	380,000
9.	MOALD/SDA/ENG/DATIC/40/2024-2025	Drilling and Equipping of Iruri Community Grounds Irrigation Solar Powered Borehole in Mathioya Constituency, Muranga County	380,000
10.	MOALD/SDA/ENG/DATIC/41/2024-2025	Drilling and Equipping of Abdisamad Irrigation Solar Powered Borehole in Balambala Constituency, Garissa County	380,000
11.	MOALD/SDA/ENG/DATIC/42/2024-2025	Drilling and Equipping of Ketigoi Irrigation Solar Powered Borehole in Keiyo South Constituency,	380,000

<b>S/No.</b>	<b>Tender No.</b>	<b>Tender Description</b>	<b>Bid Security (Kes)</b>
		Eleyo Marakwet County	
12.	MOALD/SDA/ENG/DATIC/43/2024-2025	Drilling and Equipping of Kipsaos Irrigation Solar Powered Borehole in Keiyo South Constituency, Eleyo Marakwet County	380,000
13.	MOALD/SDA/ENG/DATIC/44/2024-2025	Upgrading of Mandera County Demonstration Farm to Agricultural Training Center in Mandera Constituency, Mandera County	
14.	MOALD/SDA/ENG/DATIC/45/2024-2025	Soliat Agriculture Water Project in Soin Constituency, Kericho County	2,620,000
15.	MOALD/SDA/ENG/DATIC/46/2024-2025	Drilling and Equipping of Kapcholyo Secondary School Irrigation Solar Powered Borehole in Sotik Constituency, Bomet County	380,000
16.	MOALD/SDA/ENG/DATIC/47/2024-2025	Rehabilitation Works for Jangwani Water Pan in Borabu Constituency, Nyamira County	635,000
17.	MOALD/SDA/ENG/DATIC/48/2024-2025	Construction of Bulla Cadey Irrigation Scheme Phase 1 in Garissa Town Constituency, Garissa County	3,920,000

3. Interested eligible tenderers may obtain further information from the Office of the Engineering Secretary, State Department for Agriculture, Kilimo House, 5<sup>th</sup> Floor, Room 5-4B, Cathedral Road, P.O. Box 30028 00100, Nairobi.
4. A complete set of tendering documents may be downloaded from the Ministry's Website [www.kilimo.go.ke](http://www.kilimo.go.ke).
5. The provisions in the Instructions to Tenderers and in the General Conditions of Contract are the provisions of the **Public Procurement and Asset Disposal Act, 2015 for Procurement of Works.**
6. Tenders should be clearly marked as detailed in Table 1 (Tender Description and

Tender No.) and deposited at **the State Department for Agriculture Tender Box, situated at the Ground Floor, Kilimo House, Cathedral Road** or posted to:

**Principal Secretary**  
**State Department for Agriculture**  
**Ministry of Agriculture and Livestock Development**  
**Kilimo House, Cathedral Road**  
**P. O. Box 30028 - 00100**  
**NAIROBI**

7. All tenders should be received on or before **Wednesday, 18<sup>th</sup> April, 2025 at 11.00am Local Time** and **MUST be accompanied by a BID GUARANTEE as indicated in the table above.**
8. Bulky Tender documents that cannot fit in the tender box should be dropped at the Head: Supply Chain Management Office at Kilimo House, 4<sup>th</sup> Floor Room 4-2B.
9. Tenders will be opened in the presence of tenderers' representatives at **11.00am on Wednesday, 18<sup>th</sup> April, 2025** at the **Kilimo House, ASCU, Boardroom, Ministry of Agriculture and Livestock Development Head Office, Cathedral Road, Nairobi, Kenya.**

**Head: Supply Chain Management Unit**  
**State Department for Agriculture**

For: **PRINCIPAL SECRETARY**

<b>PART 1:</b>	<b>TENDERING PROCEDURES</b>
<b>Section I.</b>	<b>Instructions To Tenderers (ITT)</b>
	<p>This Section provides relevant information to help Tenderers prepare their Tender. Information is also provided on the submission, opening, and evaluation of Tender and on the award of Contracts.</p>
<b>Section II.</b>	<b>Tender Data Sheet (TDS)</b>
	<p>This Section consists of provisions that are specific to each procurement and that supplement the information or requirements included in Section I, <b>Instructions to Tenderers</b>.</p>
<b>Section III.</b>	<b>Evaluation and Qualification Criteria</b>
	<p>This Section contains the criteria for evaluation of the Tenders and the qualifications of the Tenderer to perform the contract.</p>
<b>Section IV.</b>	<b>Tendering Forms</b>
	<p>This Section contains the forms which are to be completed by the Tenderer and submitted as part of the Tender</p>
<b>PART 2:</b>	<b>EMPLOYER'S REQUIREMENTS</b>
<b>Section V.</b>	<b>Requirements</b>
	<p>This Section contains the Specification, the Drawings, and supplementary information that describe the Works to be procured.</p>
<b>PART 3:</b>	<b>CONDITIONS OF CONTRACT AND CONTRACT FORMS</b>
<b>Section VI.</b>	<b>General Conditions (GC)</b>
	<p>This Section contains the general clauses to be applied in the contract.</p>

## **Section VII.      Particular Conditions (PC)**

This Section consists of Contract Data and Specific Provisions which contains clauses specific to each contract. The contents of this Section supplement the General Conditions and shall be prepared by the Employer.

## **Section VIII.      Contract Forms**

This Section contains forms which, once completed, will form part of the Contract. The forms for **Performance Security** when required, shall only be completed by the successful Tenderer after contract award.

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**1.0 PART 1: TENDERING PROCEDURES**

**Section I. Instructions to Tenderers**

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**1.1      Section I. Instructions to Tenderers**

**A      General Provisions**

**1      Scope of Tender**

1.1      The Procuring Entity as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The name, identification, and number of lots (contracts) of this Tender Document are specified in the TDS.

**2      Fraud and Corruption**

2.1      The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

2.2      The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

2.3      Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the Data Sheet and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

## Section I. Instructions To Tenderers (ITT)

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2.4 Unfair Competitive Advantage -Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender being tendered for. The Procuring Entity shall indicate in the TDS firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

### **3 Eligible Tenderers**

3.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.7 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. Public employees and their close relatives (*spouses, children, brothers, sisters and uncles and aunts*) are not eligible to participate in the tender. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the TDS.

3.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

3.3 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:

- a) Directly or indirectly controls, is controlled by or is under common control with another tenderer; or
- b) Receives or has received any direct or indirect subsidy from another

## Section I. Instructions To Tenderers (ITT)

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tenderer; or

- c) Has the same legal representative as another tenderer; or
- d) Has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process; or
- e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender; or
- f) any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as Engineer for the Contract implementation; or
- g) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contract specified in this Tender Document or
- h) Has a close business or family relationship with a professional staff of the Procuring Entity who:
  - i) are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or
  - ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.

3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved any of these practices shall be automatically disqualified.

3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.

## Section I. Instructions To Tenderers (ITT)

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- 3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.
- 3.7 Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA [www.ppra.go.ke](http://www.ppra.go.ke).
- 3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are accredited by PPRA to be (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.
- 3.9 A Firms and individuals may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

## Section I. Instructions To Tenderers (ITT)

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3.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in "*SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9*".

3.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan Citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than 51 percent ownership by Kenyan citizens. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

3.12 The National Construction Authority Act of Kenya requires that all local and foreign contractors be registered with the National Construction Authority and be issued with a Registration Certificate before they can undertake any construction works in Kenya. Registration shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before such award and signature of contract. Application for registration with National Construction Authority may be accessed from the website [www.nca.go.ke](http://www.nca.go.ke).

3.13 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website [www.cak.go.ke](http://www.cak.go.ke)

## Section I. Instructions To Tenderers (ITT)

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3.14 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

## 4 Eligible Goods, Equipment, and Services

4.1 Goods, equipment and services to be supplied under the Contract may have their origin in any country that is not eligible under ITT 3.9. At the Procuring Entity's request, Tenderers may be required to provide evidence of the origin of Goods, equipment and services.

4.2 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

## 5 Tenderer's Responsibilities

5.1 The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and the Procuring Entity will in no case be responsible or liable for those costs.

5.2 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.

5.3 The Tenderer and any of its personnel or agents will be granted permission by the Procuring Entity to enter upon its premises and lands for the purpose of such visit. The Tenderer shall indemnify the Procuring Entity against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the inspection.

5.4 The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

**B      Contents of Tender Documents**

**6      Sections of Tender Document**

6.1 The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITT 8.

**PART 1 Tendering Procedures**

- i)      Section I - Instructions to Tenderers (ITT)
- ii)     Section II - Tender Data Sheet (TDS)
- iii)    Section III - Evaluation and Qualification Criteria
- iv)     Section IV - Tendering Forms

**PART 2 Works Requirements**

- i)      Section V - Drawings
- ii)     Section VI - Specifications
- iii)    Section VII - Bills of Quantities

**PART 3 Conditions of Contract and Contract Forms**

- i)      Section VIII - General Conditions of Contract (GCC)
- ii)     Section IX - Special Conditions of Contract (SC)
- iii)    Section X - Contract Forms

6.2 The Invitation to Tender Document (ITT) issued by the Procuring Entity is not part of the Contract documents.

6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Tender document, responses to requests for clarification, the minutes of the pre-Tender meeting (if any), or Addenda to the Tender document in accordance with ITT 8. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document and to furnish with its Tender all information and documentation as is required by the Tender document.

**7 Site Visit**

7.1 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the Required Services and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for the Services. The costs of visiting the Site shall be at the Tenderer's own expense.

**8 Pre-Tender Meeting**

8.1 The Procuring Entity shall specify in the TDS if a pre-tender meeting will be held, when and where. The Procuring Entity shall also specify in the TDS if a pre-arranged pretender site visit will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

8.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the TDS before the meeting.

8.3 Minutes of the pre-Tender meeting and the pre-arranged pretender site visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

8.4 The Procuring Entity shall also promptly publish anonym zed (no names) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the TDS. Any modification to the Tender Documents that may become necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

**9 Clarification and amendments of Tender Documents**

9.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the TDS or raise its enquiries during the pre-Tender meeting and the pre- arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the TDS prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If specified in the TDS, the Procuring Entity shall also promptly publish its response at the web page identified in the TDS. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT 8.4.

**10 Amendment of Tendering Document**

10.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.

10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's web page in accordance with ITT 8.4.

10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 25.2 below.

**C Preparation of Tenders**

**11 Cost of Tendering**

11.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

**12      Language of Tender**

12.1 The Tender, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring Entity, shall be written in the English Language. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate and notarized translation of the relevant passages into the English Language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

**13      Documents Comprising the Tender**

13.1 The Tender shall comprise the following:

- a) Form of Tender prepared in accordance with ITT 14;
- b) Schedules including priced Bill of Quantities, completed in accordance with ITT 14 and ITT 16;
- c) Tender Security or Tender-Securing Declaration, in accordance with ITT 21.1;
- d) Alternative Tender, if permissible, in accordance with ITT 15;
- e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
- f) Qualifications: documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
- g) Conformity: a technical proposal in accordance with ITT 18;
- h) Any other document required in the TDS.

13.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.

13.3 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

**14 Form of Tender and Schedules**

14.1 The Form of Tender and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested.

**15 Alternative Tenders**

15.1 Unless otherwise specified in the TDS, alternative Tenders shall not be considered.

15.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the TDS, and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.

15.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the Procuring Entity. When specified in the TDS, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the TDS, as will the method for their evaluating, and described in Section VII, Works' Requirements.

**16 Tender Prices and Discounts**

16.1 The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Bill of Quantities shall conform to the requirements specified below.

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- 16.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Tenderer shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Procuring Entity. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Tender, and provided that the Tender is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive Tenderers will be added to the Tender price and the equivalent total cost of the Tender so determined will be used for price comparison.
- 16.3 The price to be quoted in the Form of Tender, in accordance with ITT 14.1, shall be the total price of the Tender, including any discounts offered.
- 16.4 The Tenderer shall quote any discounts and the methodology for their application in the Form of Tender, in accordance with ITT 14.1.
- 16.5 It will be specified in the TDS if the rates and prices quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, except in cases where the contract is subject to fluctuations and adjustments, not fixed price. In such a case, the Tenderer shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Procuring Entity may require the Tenderer to justify its proposed indices and weightings.
- 16.6 Where tenders are being invited for individual lots (contracts) or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 16.4, provided the Tenders for all lots (contracts) are opened at the same time.
- 16.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

## **17 Currencies of Tender and Payment**

- 17.1 Tenderers shall quote entirely in Kenya Shillings. The unit rates and the prices shall be quoted by the Tenderer in the Bill of Quantities, entirely in Kenya shillings. A Tenderer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside Kenya shall device own ways of getting foreign currency to meet those expenditures.

**18 Documents Comprising the Technical Proposal**

18.1 The Tenderer shall furnish a technical proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Tender Forms, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work's requirements and the completion time.

**19 Documents Establishing the Eligibility and Qualifications of the Tenderer**

19.1 Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility in accordance with ITT 4.

19.2 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tender Forms.

19.3 A margin of preference will not be allowed. Preference and reservations will be allowed, individually or in joint ventures. Applying for eligibility for Preference and reservations shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 33.1.

19.4 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a contractor or group of contractors qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.

19.5 The purpose of the information described in ITT 19.4 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

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- 19.6 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
- 19.7 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.
- 19.8 If a tenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
- 19.9 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:
  - i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
  - ii) if the contract has been awarded to that tenderer, the contract award will be set aside,
  - iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.
- 19.10 If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

**20 Period of Validity of Tenders**

20.1 Tenders shall remain valid for the Tender Validity period specified in the TDS. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 24). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21.1, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 20.3.

20.3 If the award is delayed by a period exceeding the number of days to be specified in the TDS days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows:

- a) in the case of fixed price contracts, the Contract price shall be the tender price adjusted by the factor specified in the TDS;
- b) in the case of adjustable price contracts, no adjustment shall be made; or in any case, tender evaluation shall be based on the tender price without taking into consideration the applicable correction from those indicated above.

**21 Tender Security**

21.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified in the TDS, in original form and, in the case of a Tender Security, in the amount and currency specified in the TDS. A Tender-Securing Declaration shall use the form included in Section IV, Tender Forms.

21.2 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:

- a) an unconditional Bank Guarantee issued by reputable commercial bank);  
or
- b) an irrevocable letter of credit;
- c) a Banker's cheque issued by a reputable commercial bank; or
- d) another security specified in the TDS,

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- 21.3 If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 20.2.
- 21.4 If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.
- 21.5 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security and any other documents required in the TDS. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined nonresponsive or a bidder declines to extend tender validity period.
- 21.6 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the TDS.
- 21.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:
  - a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension thereto provided by the Tenderer; or
  - b) if the successful Tenderer fails to:
  - c) sign the Contract in accordance with ITT 50; or
  - d) furnish a Performance Security and if required in the TDS, and any other documents required in the TDS.
- 21.8 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.
- 21.9 The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 11.2.
- 21.10 A tenderer shall not issue a tender security to guarantee itself.

**22 Format and Signing of Tender**

- 22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 15, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 Tenderers shall mark as "CONFIDENTIAL" all information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 22.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 22.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 22.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

**D Submission and Opening of Tenders**

**23 Sealing and Marking of Tenders**

- 23.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:
  - a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and
  - b) in an envelope or package or container marked "COPIES", all required

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copies of the Tender; and

c) if alternative Tenders are permitted in accordance with ITT 15, and if relevant:

- i. in an envelope or package or container marked "ORIGINAL – ALTERNATIVE TENDER", the alternative Tender; and
- ii. in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) bear the name and address of the Procuring Entity.
- b) bear the name and address of the Tenderer; and
- c) bear the name and Reference number of the Tender.

23.2 If an envelope or package or container is not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

### **24 Deadline for Submission of Tenders**

24.1 Tenders must be received by the Procuring Entity at the address specified in the TDS and no later than the date and time also specified in the TDS. When so specified in the TDS, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the TDS.

24.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

### **25 Late Tenders**

25.1 The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of tenders, in accordance with ITT 24. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

**26 Withdrawal, Substitution, and Modification of Tenders**

26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 22.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- a) prepared and submitted in accordance with ITT 22 and ITT 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and
- b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 24.

26.2 Tenders requested to be withdrawn in accordance with ITT 26.1 shall be returned unopened to the Tenderers.

26.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

**27 Tender Opening**

27.1 Except in the cases specified in ITT 23 and ITT 26.2, the Procuring Entity shall publicly open and read out all Tenders received by the deadline, at the date, time and place specified in the TDS, in the presence of Tenderers' designated representatives who chooses to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 24.1, shall be as specified in the TDS.

27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelopes with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

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27.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

27.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.

27.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.

27.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the Procuring Entity to sign shall be specified in the TDS.

27.7 At the Tender Opening, the Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 25.1).

27.8 The Procuring Entity shall prepare minutes of the Tender Opening that shall include, as a minimum:

- a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
- b) the Tender Price, per lot (contract) if applicable, including any discounts;
- c) any alternative Tenders;
- d) the presence or absence of a Tender Security, if one was required.
- e) number of pages of each tender document submitted.

27.9 The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening register shall be distributed to all Tenderers upon request.

**E Evaluation and Comparison of Tenders**

**28 Confidentiality**

- 28.1 Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with the Tender process until information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 46.
- 28.2 Any effort by a Tenderer to influence the Procuring Entity in the evaluation of the Tenders or Contract award decisions may result in the rejection of its tender.
- 28.3 Notwithstanding ITT 28.2, from the time of tender opening to the time of contract award, if a tenderer wishes to contact the Procuring Entity on any matter related to the tendering process, it shall do so in writing.

**29 Clarification of Tenders**

- 29.1 To assist in the examination, evaluation, and comparison of the tenders, and qualification of the tenderers, the Procuring Entity may, at its discretion, ask any tenderer for a clarification of its tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the tenders, in accordance with ITT 33.
- 29.2 If a tenderer does not provide clarifications of its tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

**30 Deviations, Reservations, and Omissions**

- 30.1 During the evaluation of tenders, the following definitions apply:
  - a) "Deviation" is a departure from the requirements specified in the tender document;
  - b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document; and
  - c) "Omission" is the failure to submit part or all of the information or documentation required in the Tender document.

**31 Determination of Responsiveness**

31.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 13.

31.2 A substantially responsive Tender is one that meets the requirements of the Tender document without **material deviation, reservation, or omission**. **A material deviation, reservation, or omission is one that, if accepted, would:**

- a) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
- b) limit in any substantial way, inconsistent with the tender document, the Procuring Entity's rights or the tenderer's obligations under the proposed contract; or
- c) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.

31.3 The Procuring Entity shall examine the technical aspects of the tender submitted in accordance with ITT 18, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.

31.4 If a tender is not substantially responsive to the requirements of the tender document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

**32 Non-material non-conformities**

32.1 Provided that a tender is substantially responsive, the Procuring Entity may waive any non-conformities in the tender.

32.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the tenderer submit the necessary information or documentation, within a reasonable period, to rectify nonmaterial non-conformities in the tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the tender. Failure of the tenderer to comply with the request may result in the rejection of its tender.

32.3 Provided that a tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the TDS.

**33 Arithmetical Errors**

33.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

33.2 Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:

- a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
- b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, and subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
- c) if there is a discrepancy between words and figures, the amount in words shall prevail

33.3 Tenderers shall be notified of any error detected in their bid during the notification of a ward.

**34 Currency provisions**

34.1 Tenders will be priced in Kenya Shillings only. Tenderers quoting in currencies other than in Kenya shillings will be determined non-responsive and rejected.

**35 Margin of Preference and Reservations**

35.1 No margin of preference shall be allowed on contracts for small works.

35.2 Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and/or persons living with disability, who are appropriately registered as such by the authority to be specified in the TDS, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses/firms belonging to those specified groups are the only ones eligible to tender. Otherwise if no so stated, the invitation will be open to all tenderers.

**36 Nominated Subcontractors**

- 36.1 Unless otherwise stated in the TDS, the Procuring Entity does not intend to execute any specific elements of the Works by subcontractors selected in advance by the Procuring Entity.
- 36.2 Tenderers may propose subcontracting up to the percentage of total value of contracts or the volume of works as specified in the TDS. Subcontractors proposed by the Tenderer shall be fully qualified for their parts of the Works.
- 36.3 The subcontractor's qualifications shall not be used by the Tenderer to qualify for the Works unless their specialized parts of the Works were previously designated by the Procuring Entity in the TDS as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Subcontractors proposed by the Tenderer may be added to the qualifications of the Tenderer.

**37 Evaluation of Tenders**

- 37.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine the Best Evaluated Tender in accordance with ITT 40.
- 37.2 To evaluate a Tender, the Procuring Entity shall consider the following:
  - i) price adjustment due to discounts offered in accordance with ITT 16;
  - ii) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 39;
  - iii) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 30.3; and
  - iv) any additional evaluation factors specified in the TDS and Section III, Evaluation and Qualification Criteria.
- 37.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.

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37.4 In the case of multiple contracts or lots, Tenderers shall be allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the Form of Tender, is specified in Section III, Evaluation and Qualification Criteria.

### **38 Comparison of Tenders**

38.1 The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 38.2 to determine the Tender that has the lowest evaluated cost.

### **39 Abnormally Low Tenders**

39.1 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price or that genuine competition between Tenderers is compromised.

39.2 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.

39.3 After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

### **40 Abnormally High Tenders**

40.1 An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.

40.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:

- i) If the tender price is abnormally high based on wrong estimated cost of

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the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.

ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

40.3 If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (often due to collusion, corruption or other manipulations), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

### **41 Unbalanced and/or Front-Loaded Tenders**

41.1 If in the Procuring Entity's opinion, the Tender that is evaluated as the lowest evaluated price is seriously unbalanced and/or front loaded, the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with the scope of works, proposed methodology, schedule and any other requirements of the Tender document.

41.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may as appropriate:

- a) accept the Tender; or
- b) require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or
- c) agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works; or
- d) reject the Tender,

### **42 Qualifications of the Tenderer**

42.1 The Procuring Entity shall determine to its satisfaction whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

## Section I. Instructions To Tenderers (ITT)

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- 42.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 19. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.
- 42.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similar determination of that Tenderer's qualifications to perform satisfactorily.
- 42.4 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.
- 42.5 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.
- 42.6 After evaluation of the price analyses, if the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

### **43 Best Evaluated Tender**

- 43.1 Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Best Evaluated Tender. The Best Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:
  - a) Most responsive to the Tender document; and
  - b) the lowest evaluated price.

**44      Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders.**

44.1    The Procuring Entity reserves the right to accept or reject any Tender and to annul the Tender process and reject all Tenders at any time prior to Contract Award, without thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

**F              Award of Contract**

**45      Award Criteria**

45.1    The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender.

**46      Notice of Intention to enter into a Contract**

46.1    Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity shall issue a Notification of Intention to Enter into a Contract / Notification of award to all tenderers which shall contain, at a minimum, the following information:

- a)    the name and address of the Tenderer submitting the successful tender;
- b)    the Contract price of the successful tender;
- c)    a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
- d)    the expiry date of the Standstill Period; and
- e)    instructions on how to request a debriefing and/or submit a complaint during the standstill period;

**47      Standstill Period**

47.1    The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.

47.2    Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.

**48 Debriefing by the Procuring Entity**

- 48.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 46, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.
- 48.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

**49 Letter of Award**

- 49.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21days of the date of the letter.

**50 Signing of Contract**

- 50.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.
- 50.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Procuring Entity.
- 50.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period

**51 Appointment of Adjudicator**

- 51.1 The Procuring Entity proposes the person named in the TDS to be appointed as Adjudicator under the Contract, at the hourly fee specified in the TDS, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in his Tender. If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority designated in the Special Conditions of Contract (SCC) pursuant to Clause 23.1 of the General Conditions of Contract (GCC), to appoint the Adjudicator.

**52      Performance Security**

52.1 Within twenty-one (21) days of the receipt of the Letter of Acceptance from the Procuring Entity, the successful Tenderer shall furnish the Performance Security and, any other documents required in the TDS, in accordance with the General Conditions of Contract, subject to ITT 40.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent bank is not required.

52.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the TDS, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.

52.3 Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million shillings.

**53      Publication of Procurement Contract**

53.1 Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:

- a) name and address of the Procuring Entity;
- b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;
- c) the name of the successful Tenderer, the final total contract price, the contract duration.
- d) dates of signature, commencement and completion of contract;
- e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

**54      Procurement Related Complaints and Administrative Review**

54.1 The procedures for making Procurement-related Complaints are as specified in the TDS.

54.2 A request for administrative review shall be made in the form provided under contract forms

## 1.2 Section II. Tender Data Sheet (TDS)

ITT REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<b>A. General</b>
<b>ITT 1.1</b>	The number of the Invitation for Tenders is: <b>MOALD/SDA/ENG/DATIC/48/2024-2025</b>
<b>ITT 1.1</b>	The Procuring Entity is: <b>Principal Secretary, State Department for Agriculture, Ministry of Agriculture and Livestock Development</b>
<b>ITT 1.1</b>	The name of the Tendering process is: <b>National Competitive Bidding</b> The identification number of the tendering process is: <b>MOALD/SDA/ENG/DATIC/48/2024-2025</b>
	<b>B. Contents of Tender Document</b>
<b>ITT 8.1</b>	A. Pre-Tender conference “ <b>shall not</b> ” take place B. A pre-arranged pretender visit of the site of the works “ <b>shall not</b> ” take place
<b>ITT 9.1</b>	For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the Procuring Entity’s address is: <b>Principal Secretary, State Department for Agriculture, Ministry of Agriculture and Livestock Development</b>
	<b>C. Preparation of Tenders</b>
<b>ITP 13.1 (h)</b>	The Tenderer shall submit the following Documentary Evidence to establish the conformity of the Technical Proposal with the Bidding Document: <ul style="list-style-type: none"> <li>◆ <b>Evidence of similar works undertaken in the past two years</b></li> <li>◆ <b>List of equipment proposed for the works (provide proof of ownership, lease or hire)</b></li> <li>◆ <b>List of proposed personnel, signed CV's and clear proposed positions/tasks for each</b></li> </ul>

ITT REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<ul style="list-style-type: none"> <li>◆ Audited financial statements for the last three years</li> <li>◆ Clear work program/plan</li> </ul>
<b>ITT 15.1</b>	Alternative Tenders " <b>shall not be</b> " considered.
<b>ITT 15.2</b>	Alternative times for completion " <b>shall not be</b> " permitted.
<b>ITT 15.4</b>	Alternative technical solutions shall be permitted for the following parts of the Works: " <b>None</b> "
<b>ITT 16.5</b>	The prices quoted by the Tenderer <b>shall be: "fixed"</b>
<b>ITT 20.1</b>	The Tender validity period shall be <b>120 days</b>
<b>ITT 20.3 (a)</b>	<p>(a).The delayed to exceeding <b>N/A</b> number of days.</p> <p>(b).The Tender price shall be adjusted by the following percentages of the tender price:</p> <p>(i) By <b>N/A</b> % of the local currency portion of the Contract price adjusted to reflect local inflation during the period of extension, and</p> <p>(ii) By <b>N/A</b> % the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension.</p>
<b>ITT 21.1</b>	<p>A Tender Security "<b>shall be</b>" required.</p> <p>A Tender-Securing Declaration "<b>shall be</b>" required.</p> <p>If a Tender Security shall be required, the amount and currency of the Tender Security shall be <b>10% of Tender Sum in Kenya Shillings</b></p>
<b>ITT 22.1</b>	In addition to the original of the Tender, the number of copies is: <b>1 copy</b>
<b>ITT 22.3</b>	<p>The written confirmation of authorization to sign on behalf of the Tenderer shall consist of:</p> <p>(a). The name and description of the documentation required to demonstrate the authority of the signatory to sign the Bid such as a Power of Attorney, authorization letter in company stationery; and</p> <p>(b). In the case of Bids submitted by an existing or intended JVCA an undertaking signed by all parties (i) stating that all parties shall be jointly and severally liable, if so, required in accordance with ITB</p>

ITT REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	4.1(a), and (ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JVCA during the bidding process and, in the event the JV is awarded the Contract, during contract execution.”]
<b>D. Submission and Opening of Tenders</b>	
<b>ITT 24.1</b>	<p>(A) For <u>Tender submission purposes only</u>, the Procuring Entity's address is:</p> <p>Attention: <b>Principal Secretary, State Department for Agriculture</b>      Street Address: <b>Cathedral Road</b>      Floor/Room number: <b>Ground Floor, State Department for Agriculture</b>  <b>Tender Box</b>      City: <b>Nairobi</b>      ZIP Code: <b>P.O. Box 30028-00100, Nairobi, Kenya</b>      Country: <b>KENYA</b>      The deadline for bid submission is date: <b>18/06/2025</b>      Time: <b>11.00am</b>      Tenders shall <b>shall not submit</b> tenders electronically.</p>
<b>ITT 27.1</b>	<p>The Tender opening shall take place at the time and the address for Opening of Tenders provided below:</p> <p>Street Address: <b>Cathedral Road, State Department for Agriculture</b>,      Floor/Room number: <b>ASCU Boardroom, Kilimo House</b>      City: <b>Nairobi</b>      Country: <b>Kenya</b>      Date: <b>18/06/2025</b>      Time: <b>11.00am</b></p>
<b>E. Evaluation, and Comparison of Tenders</b>	
<b>ITT 32.3</b>	<p>The adjustment shall be based on the _____ [insert "average" or "highest"] price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.</p>
<b>ITT 37.2 (d)</b>	<p>Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.</p>

ITT REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>ITT 51.1</b>	<p>The person named to be appointed as Adjudicator is <b>Chartered Institute of Arbitrators, Kenya</b>  <b>P.O. Box 50163 - 00200</b>  <b>Nairobi, Kenya</b></p> <p>Email Address: <a href="mailto:info@ciarbkenya.org">info@ciarbkenya.org</a></p>
<b>ITT 52.2</b>	<p>The Tenderer shall submit with its bid the following mandatory additional documents:</p> <ul style="list-style-type: none"> <li>◆ <b>Certificate of registration/incorporation</b></li> <li>◆ <b>Copy of the Bidder's VAT registration certificate or equivalent</b></li> <li>◆ <b>A valid tax compliance certificate</b></li> <li>◆ <b>Written authorization for the person signing the documents from the company/Power of Attorney</b></li> <li>◆ <b>Joint venture agreement, in the required format, for those submitting bids as joint ventures</b></li> <li>◆ <b>A bid guarantee from a Bank in the format given/attached and shall be valid for twenty-eight days (28) beyond the original validity period of the bid</b></li> <li>◆ <b>Duly filled and signed letter of bid in the company letterhead and in the format attached.</b></li> </ul>

### **1.3      Section III. Evaluation and Qualification Criteria**

#### **1.3.1    Evaluation Criteria and Methodology**

##### **1       General Provisions**

Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:

- a) For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
- b) Value of single contract - Exchange rate prevailing on the date of the contract signature.
- c) Exchange rates shall be taken from the publicly available source identified in the ITT 14.3. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.

This section contains the criteria that the Employer shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. The Procuring Entity should use the Standard Tender Evaluation Document for Goods and Works for evaluating Tenders.

#### **Evaluation and contract award Criteria**

The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents, and (iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

### **2 Preliminary examination for Determination of Responsiveness**

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements of "Part 2 – Procuring Entity's Works Requirements", including checking for tenders with unacceptable errors, abnormally low tenders, abnormally high tenders and tenders that are front loaded. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides very clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered irresponsible and will not be considered further.

### **3 Tender Evaluation (ITT 35) Price evaluation: in addition to the criteria listed in ITT 35.2 (a) – (c) the following criteria shall apply:**

- i) **Alternative Completion Times**, if permitted under ITT 13.2, will be evaluated as follows: **NONE**
- ii) **Alternative Technical Solutions** for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows: **NONE**
- iii) **Other Criteria; if permitted under ITT 35.2(d): NONE**

### **4 Multiple Contracts**

Multiple contracts will be permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

#### **OPTION 1**

- i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.
- ii) If a tenderer wins more than one Lot, the tender will be awarded contracts for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the Lots. The tenderer will be awarded the combination of Lots for which the tenderer qualifies and the others will be considered for award to second lowest the tenderers.

## **OPTION 2**

The Procuring Entity will consider all possible combinations of won Lots [contract(s)] and determine the combinations with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combinations provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

**5**

### **Alternative Tenders (ITT 13.1)**

An alternative if permitted under ITT 13.1, will be evaluated as follows:

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2- Works Requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

**6**

### **Margin of Preference is not applicable**

**7**

### **Post qualification and Contract award (ITT 39), more specifically,**

- a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification data, if so required.
- b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.
  - i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of Kenya Shillings
  - ii) Minimum average annual construction turnover of Kenya Shillings \_\_\_\_\_ [insert amount], equivalent calculated as total certified payments received for contracts in progress and/or completed within the last [insert of year] years.
  - iii) At least (insert number) of contract(s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings \_\_\_\_\_ equivalent.
  - iv) Contractor's Representative and Key Personnel, which are specified as

### Section III. Evaluation and Qualification Criteria

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- v) Contractors key equipment listed on the table "Contractor's Equipment" below and more specifically listed as [specify requirements for each lot as applicable]
- vi) Other conditions depending on their seriousness.

**(a). History of non-performing contracts:**

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last (specify years). The required information shall be furnished in the appropriate form.

**(b). Pending Litigation**

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

**(c). Litigation History**

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last (specify years). All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender

## **Qualification Criteria**

<b>1.3.2 Qualification Tables (Without Prequalification) .....</b>	<b>51</b>
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### 1.3.2 Qualification Tables (Without Prequalification)

#### Qualification Form Summary

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
1.	Nationality	Nationality in accordance with ITT 3.6	Forms ELI – 1.1 and 1.2, with attachments	
2.	Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14.	Form of Tender	
3.	Conflict of Interest	No conflicts of interest in accordance with ITT 3.3	Form of Tender	
4.	PPRA Eligibility	Not having been declared ineligible by the PPRA as described in ITT 3.8	Form of Tender	
5.	State-owned Enterprise	Meets conditions of ITT 3.7	Forms ELI – 1.1 and 1.2, with attachments	
6.	Goods, equipment and services to be supplied under the contract	To have their origin in any country that is not determined ineligible under ITT 4.1	Forms ELI – 1.1 and 1.2, with attachments	
7.	History of Non-Performing Contracts	Non-performance of a contract did not occur as a result of contractor default since 1 <sup>st</sup> January [.....].	Form CON-2	
8.	Suspension Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	Not under suspension based on-execution of a Tender/Proposal Securing Declaration pursuant to ITT 19.9	Form of Tender	
9.	Pending Litigation	Tender's financial position and prospective long-	Form CON – 2	

### Section III. Evaluation and Qualification Criteria

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document Completed To be by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
		term profitability still sound according to criteria established in 3.1 and assuming that all pending litigation will NOT be resolved against the Tenderer.		
10.	Litigation History	No consistent history of court/arbitral award decisions against the Tenderer since 1 <sup>st</sup> January <i>[insert year]</i>	Form CON – 2	
11.	Financial Capabilities	<p>(i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kenya Shillings <i>[insert amount]</i> equivalent for the subject contract(s) net of the Tenderer's other commitments.</p> <p>(ii) The Tenderers shall also demonstrate, to the satisfaction of the Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.</p> <p>(iii) The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last <i>[insert number of years]</i> years shall be submitted and must demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long-term</p>	Form FIN – 3.1, with attachments	

### Section III. Evaluation and Qualification Criteria

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document Completed To be by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
		profitability.		
12.	Average Annual Construction Turnover	Minimum average annual construction turnover of Kenya Shillings <i>[insert amount]</i> , equivalent calculated as total certified payments received for contracts in progress and/or completed within the last <i>[insert of year]</i> years, divided by <i>[insert number of years]</i> years	Form FIN – 3.2	
13.	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last <i>[insert number of years]</i> years, starting 1 <sup>st</sup> January <i>[insert year]</i> .	Form EXP – 4.1	
14.	Specific Construction & Contract Management Experience	<p>A minimum number of <i>[state the number]</i> similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub-contractor between 1<sup>st</sup> January <i>[insert year]</i> and tender submission deadline i.e. .... (number) contracts, each of minimum value Kenya shillings..... equivalent.</p> <p><i>[In case the Works are to be tender as individual contracts under multiple contract procedure, the minimum number of contracts required for purposes of evaluating qualification shall be selected from the options mentioned in ITT 35.4]</i></p> <p>The similarity of the contracts shall be based on the following: <i>[Based on Section VII, Scope of</i></p>	Form EXP 4.2(a)	

### Section III. Evaluation and Qualification Criteria

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1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document Completed To be by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
		<i>Works, specify the minimum key requirements in terms of physical size, complexity, construction method, technology and/or other characteristics including part of the requirements that may be met by specialized subcontractors, if permitted in accordance with ITT 34.3]</i>		

Section III. Evaluation and Qualification Criteria

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**Historical Contract Non-Performance**

Factor	Historical Contract Non-Performance					Documentation Required		
	Sub-Factor	Requirement	Criteria					
			Bidder					
			Single Entity	Joint Venture, Consortium or Association	All partners combined	Each partner	At least one partner	
History of non-performing contracts		Non-performance of a contract did not occur <b>within the last two (2) years</b> prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Must meet requirement by itself or as partner to past or existing JVCA	N / A		Form CON - 2

### Section III. Evaluation and Qualification Criteria

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	been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the bidder have been exhausted.					
Failure to Sign Contract	Not being under execution of Bid-Securing Declaration pursuant to ITB 4.6 for two (2No) years	Must meet requirement	N / A	Must meet requirement by itself or as partner to a JVCA	N / A	Letter of Bid
Pending Litigation	All pending litigation shall in total not represent more than	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Must meet requirement by itself or as partner to past or existing JVCA	N / A	Form CON – 2

### Section III. Evaluation and Qualification Criteria

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	five percent (5%) of the Bidder's net worth and shall be treated as resolved against the Bidder.					
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Section III. Evaluation and Qualification Criteria

**Financial Situation**

Factor	Financial Situation						Documentation Required			
	Sub-Factor	Requirement	Criteria			Single Entity				
			Bidder		Joint Venture, Consortium or Association					
			All partners combined	Each partner	At least one partner					
Historical Financial Performance		<p>Submission of audited balance sheets or other financial statements acceptable to the Employer, <b>for the last three[3No] years</b> to demonstrate the current soundness of the bidder's financial position and its prospective long-term profitability.</p> <p><b>(a) Audited accounts in comparative form</b></p> <p><b>(b) Valid Tax Compliance</b></p> <p><b>(c) Cash flow statements (Supported by Bank statements)</b></p>	Must meet requirement	N / A	Must meet requirement	N / A	Form FIN – 3.1 with attachments			
Average Annual		<b>Minimum average annual turnover of KES 5 million,</b>	Must meet requirement	Must meet requirement	Must meet _____	Must meet _____	Form FIN –3.2			

### Section III. Evaluation and Qualification Criteria

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Turnover	calculated as total certified payments received for contracts in progress or completed, <b>within the last three (3) years</b>			percent (____%) of the requirement	percent (____%) of the requirement	
Financial Resources	<p>The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:</p> <p>(i.) the following cash-flow requirement:</p> <p><b>Current ratio = <u>Liquid Assets/Liquid liabilities</u></b></p> <p><b>Greater than 1</b></p> <p><b>and</b></p> <p><b>Debt Ratio = <u>Total Debt/Total Assets</u></b></p> <p><b>Less than 1</b></p> <p><b>and</b></p> <p>(ii.) the overall cash flow requirements for this contract and its current commitments.</p>	Must meet requirement	Must meet requirement	Must meet fifty percent (50%) of the requirement	Must meet seventy five percent (75%) of the requirement	Form FIN -3.3 + Form CCC

Section III. Evaluation and Qualification Criteria

**Experience**

Factor	Experience					Documentation Required	
	Sub-Factor	Requirement	Criteria				
			Single Entity	Bidder			
				Joint Venture, Consortium or Association			
			All partners combined	Each partner	At least one partner		
General Experience		Experience under contracts in the role of contractor, subcontractor, or management contractor for <b>at least in the last two [2No] years</b> prior to the applications submission deadline and with an activity in at least each year.	Must meet requirement	N / A	Must meet requirement	N / A	Form EXP-4.1
Specific Experience		(a) Participation as contractor, management contractor, or subcontractor, in <b>at least two (2No) construction of irrigation schemes within the last three (3No) years</b> that have been successfully and substantially completed	Must meet requirement	Must meet requirements for all characteristics	N / A	Must meet requirement for one characteristic	Form EXP 2.4.2(a)

### Section III. Evaluation and Qualification Criteria

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	similar to the proposed Works. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section V, Requirements.					
Specific Experience	<p>(b) For the above or other contracts executed during the period stipulated in 2.4.2(a) above, a minimum experience in the following key activities:</p> <ol style="list-style-type: none"> <li><b>1. Intake Works</b></li> <li><b>2. Conveyance</b></li> <li><b>3. Masonry tanks</b></li> <li><b>4. Pump House</b></li> <li><b>5. B. Pump &amp; Accessories</b></li> </ol>	Must meet requirements	Must meet requirements	N / A	Must meet requirements	Form 2.4.2(b) EXP-

### Section III. Evaluation and Qualification Criteria

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#### Personnel

The Bidder must demonstrate that it will have the personnel for the key positions that meet the following requirements:

No.	Personnel	Qualification	No.	Experience	Remarks
1.	Site Agent	<ul style="list-style-type: none"><li>◆ Bachelor of Science in Agricultural/Biosystems Engineering/Irrigation Engineering/Any other related field</li><li>◆ Registered as a professional Engineer and with current Engineers' Practicing License</li></ul>	1	5 years	All from recognized Institution
2.	Environmentalist	Lead Expert with NEMA with a Valid Practicing License	1	5 years	
3.	Surveyor	Diploma/Diploma in Survey Technology	1	5 years	
4.	Foremen	Certificate in Building Construction or any other related field.	1	5 years	
5.	Plant Operator	Plant Operator Grade 2	1	5 years	
6.	Welder	Certificate In Welding	1	5 years	

The Bidder shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Bidding Forms.

### Section III. Evaluation and Qualification Criteria

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#### Equipment

The Bidder must demonstrate that it will have access to the key Contractor's equipment listed hereafter either by ownership or lease:

<b>ITEM No.</b>	<b>TYPE OF EQUIPMENT</b>	<b>NO.</b>	<b>CAPACITY</b>	<b>REMARKS</b>
1.	Hydraulic Excavator, at least 90 Hp	2		
2.	Tipper Lorry	2	10 ton	
3.	Pick Up	1	1 ton	
4.	Backhoe	3		
5.	Water Boozer	1	1000 Litres	
6.	Grader	1		
7.	De-Watering Pump	1		
8.	Vibrator	1		
9.	Concrete Mixer	1		
10.	Survey Equipment	1		
11.	Welding Machine	1		
12.	Mobile Generator	1		
13.	Grinder	1		

## 1.4      **Section IV. Tendering Forms**

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### Form of Tender

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

Date of this Tender submission: .....[insert date (as day, month and year) of Tender submission] Tender Name and Identification No.:  
.....[insert identification] .....

To: ..... [Insert complete name of Procuring Entity]

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above-named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum of Kenya Shillings [Amount in figures].....Kenya Shillings [amount in words].....  
The above amount includes foreign currency amount (s) of [state figure or a percentage and currency] [figures].....[words].....
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.
3. We agree to adhere by this tender until [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.
5. We, the undersigned, further declare that:
  - i) **No reservations:** We have examined and have no reservations to the tender document, including Addenda issued in accordance with ITT 28;
  - ii) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;
  - iii) **Tender-Securing Declaration:** We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing or

Proposal-Securing Declaration in the Procuring Entity's Country in accordance with ITT 19.8;

- iv) Conformity: We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works: *[insert a brief description of the Works]*;
- v) Tender Price: The total price of our Tender, excluding any discounts offered in item 1 above is *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies]*
- vii) Tender Validity Period: Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- viii) Performance Security: If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document;
- ix) One Tender Per Tender: We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;
- x) Suspension and Debarment: We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
- xi) State-owned enterprise or institution: *[select the appropriate option and delete the other]* *[We are not a state-owned enterprise or institution]* / *[We are a state-owned enterprise or institution but meet the requirements of ITT 3.8]*;
- xii) Binding Contract: We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;

## Section IV. Tendering Forms

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- xiii) Fraud and Corruption: We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption;
- xiv) Collusive practices: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Tender Determination" attached below.
- xv) We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, during the procurement process and the execution of any resulting contract.
- xvi) Beneficial Ownership Information: We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.
- xvii) We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:
  - a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
  - b) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
  - c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
  - d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal

Further, we confirm that we have read and understood the full content and scope of fraud and corruption informed as in "**Appendix 1- Fraud and Corruption**" attached to the Form of Tender.

**Name of the Tenderer:** \*[*insert complete name of person signing the Tender*]

**Name of the person duly authorized to sign the Tender on behalf of the Tenderer:** \*\*[*insert complete name of person duly authorized to sign the Tender*]

**Title of the person signing the Tender:** [insert complete title of the person signing the Tender]

**Signature of the person named above:** [insert signature of person whose name and capacity are shown above] **Date signed** [insert date of signing] day of [insert month], [insert year]

Date signed..... day of .....

**Bill of Quantities/Schedules of Prices****CONSTRUCTION OF BULLA CADEY IRRIGATION SCHEME PHASE 1 IN  
GARISSA TOWN CONSTITUENCY, GARISSA COUNTY**

<b>GRAND SUMMARY FOR CONSTRUCTION OF BULLA CADEY IRRIGATION SCHEME PHASE 1 IN GARISSA TOWN CONSTITUENCY, GARISSA COUNTY</b>		
<b>BILL No.</b>	<b>DESCRIPTION</b>	<b>CONTRACT AMOUNT (KES)</b>
Bill No. 1	Preliminaries	
Bill No. 2	Intake Works	
Bill No. 3	Conveyance	
Bill No. 4	Masonry tanks	
Bill No. 5	Pump House	
Bill No. 6	B. Pump & Accessories	
<b>SUB-TOTAL 1</b>		
<b>ADD 10% CONTINGENCIES</b>		
<b>SUB-TOTAL 2</b>		
<b>ADD 16% VAT</b>		
<b>TOTAL</b>		

<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Qty</b>	<b>Rate</b>	<b>Amount</b>
	<b>Bill No. 1 - Preliminaries</b>				
<b>1.1</b>	<b>Contractual Requirements</b>				
1.1. 1	Allow for establishment, mobilisation and demobilization of the contractor's camp together with all the required equipment.	LS	1		
1.1. 2	Insurance of the Works, Plant and Materials against loss or damage.	LS	1	220,000	220,000
1.1. 3	Insurance of Contractor's Equipment against loss or damage.	LS	1	220,000	220,000
1.1. 4	Third party insurance	LS	1	110,000	110,000

<b>1.2</b>	<b>Stamp Charges</b>				
	The contractor shall allow for the payment of all stamp charges in connection with the contract agreement	LS	1	500,000	500,000
<b>1.3</b>	<b>Samples</b>				
	The contractor shall make arrangement for Laboratory testing as and when required for quality control, and make available for independent testing of works sample by the Resident Engineer. The Contractor may be required to witness the testing.	LS	1	250,000	250,000
<b>1.4</b>	<b>Temporary works, offices, and sheds</b>				
	The contractor shall erect or hire and maintain temporary office accomodation for his use and ample temporary water tight sheds for the proper storage of materials and for use of artisans including removal when ordered. Floors, sheds shall be at least 150mm above ground level.	LS	1	500,000	500,000
<b>1.5</b>	<b>Sanitation</b>				
	The contractor shall provide the necessary latrine for staff and workmen to the requirements and satisfaction of the health authorities and maintain the same in a thorough clean and sanitary condition and pay all conservancy fees during the period of the works and remove when no longer required.	LS	1	200,000	200,000
<b>1.6</b>	<b>Existing and adjacent property</b>				
	The contractor must take all steps necessary to safeguard existing and adjacent property, make good at his own expenses any injury or damage to persons or property cased thereon and	LS	1	150,000	150,000

## Section IV. Tendering Forms

	hold the employer indemnified against any such claim arising.				
<b>1.7</b>	<b>Security</b>				
	The contractor must take all precautions necessary for the safe custody of the works, material, and public and employers' property on site.	LS	1	150,000	150,000
<b>1.8</b>	<b>Protection and cleaning</b>				
	The contractor shall cover up and protect from damage including damage from inclement weather, all finished works and unfixed material including that of sub-contractor etc, to the satisfaction of the engineer until the completion of the contract. Careful preserve all trees and bushes on or near the site. The contractor upon completion of the works shall, at his own expense, remove and clear away all surplus excavated material, plants, rubbish, and unused material and shall leave the site and works in a tidy state to the satisfaction of the engineer, including clearing away and making good all traces of temporary access roads, sheds, camps etc.	LS	1	250,000	250,000
<b>1.9</b>	<b>Resident Engineer's Office: (Items Procured shall revert to the employer at the end of the Contract)</b>				
1.9. 1	Provide or Rent 2 No. offices for the Resident Engineer and the Resident Engineer's staff as per the Resident Engineers approval.	Months	18	40,000	720,000
1.9. 2	Provisional Sum for furnishing of the Resident Engineer and the Resident Engineer's staff offices as per schedule of items	LS	1	450,000	450,000
1.9. 3	Provisional Sum for office equipment for the sole use of the Resident	LS	1	150,000	150,000

## Section IV. Tendering Forms

	Engineer and the Resident Engineer's staff				
1.9.4	Provisional sum for utility bills (water, electricity) for the Resident Engineer's office during the Contract period	LS	1	75,000	75,000
1.9.5	Allow for daily attendance, maintenance, cleaning and 24-hour security of the Resident Engineer's office	Months	18	30,000	540,000
1.9.6	Provide for payment of miscellaneous accounts for stationery, office consumables etc. as directed by the engineer (Prov.Sum)	Months	18	20,000	360,000
1.9.7	Contractor's mark-up for profit and overheads in respect to Items 1.9.1 - 1.9.6	%			
<b>1.1</b>	<b>Concrete Strength Tests</b>				
1.1.0.1	Provisional Sum for additional concrete tests, as directed by the Resident Engineer	Prov. Sum	1	250,000	250,000
1.1.0.2	Contractor's mark-up for profit and overheads in respect to Item 1.10.1	%			
<b>1.1.1.</b>	<b>Site meetings</b>				
1.1.1.1	Allow for provisional sum for monthly site management meeting expenses for the whole duration of the contract.	Provisional sum	1	2,000,000	2,000,000
1.1.1.2	Contractor's mark-up for profit and overheads in respect to Items 1.11.1	%			
<b>1.1.5</b>	<b>Signboards</b>				
1.1.5.1	Provision, erection and maintenance of project signboards in accordance with the Specifications in clause 1.31.	No.	3	60,000	180,000
<b>1.1.6</b>	<b>Pre-handing over activities</b>				
1.1.6.1	Provision, erection and maintenance of project signboards in accordance with the Specifications in clause 1.31.	No.	3	75,000	225,000

<b>1.1 7</b>	<b>Pre-handing over activities</b>				
1.1 7.1	Operate completed project for 14 days prior to handing over including all costs	Days	14	15,000	210,000
<b>1.1 8</b>	<b>Support to Project Manager's Office</b>				
1.1 8.1	Provisional Sum of KES five million to cover supervision costs by the Project Manager's office to cover expenses for Clerks of Works, communications, transport, allowances, etc to be expended as directed by the Project Manager.	LS	1	5,000,000	5,000,000
1.1 8.2	Provisional sum of KES three milion to cover design reviews	LS	1	3,000,000	3,000,000
1.1 8.3	Provisional sum of KES three million to cover for accessibility to the site	LS	1	3,000,000	3,000,000
1.1 8.4	Providional sum of KES three milion to cover strengthening of Project Management Committee	LS	1	3,000,000	3,000,000
1.1 8.5	Provisional sum of KES four hundred thousand to cover for Enironmental impact assessment	LS	1	400,000	400,000
1.1 8.6	Contractor's Overheads and Profit for item 1.18 above.	%			
	<b>TOTAL BILL CARRIED OVER TO GRAND SUMMARY</b>				
<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Qty</b>	<b>Rate</b>	<b>Amount</b>
	<b>Bill No. 2 - Intake Works</b>				
<b>2.1</b>	<b>Earthworks and filling</b>				
	To include all trimming to levels, backfilling with approved selected spoil, compacting, disposal, of surplus materials and reinstatement.				
	Sump Construction				
2.1. 1	Allow a provisional sum on KES. One Million for the construction of a coffer dam to hold off water during construction	Ls	1	1,000,000	1,000,000

Section IV. Tendering Forms

2.1. 2	Excavation on the river bedrock at depths n.e. 4 m, 5.5 m length and width; and a 1 m by 1 m walling running base to form sump as directed by the resident engineer	m <sup>3</sup>	180		
<b>2.2.</b>	<b>Concrete works</b>				
	Provide and place the following concrete including all formworks and tests				
2.2. 1	Blinding concrete Class 15/40,	m <sup>3</sup>	9.0		
2.2. 2	Mass concrete Class 20/20	m <sup>3</sup>	10.0		
2.2. 3	Reinforced concrete Class 35/20 for top and bottom slab	m <sup>3</sup>	10		
2.2. 4	Reinforced concrete Class 35/20 for walling structure	m <sup>3</sup>	60		
<b>2.3</b>	<b>Protection Works</b>				
2.3. 1	Mortared (1:3 cement/sand ) stone pitching protection 250 - 300mm to outlet protection works as directed by the Engineer	m <sup>2</sup>	20.00		
<b>2.4</b>	<b>Steel works. Rates to include formwork, binding wire chairs and covers</b>				
	High-tensile steel bars to the structure				
2.4. 1	Bottom slab D12	kg	450		
2.4. 2	Top slab D12	kg	450		
2.4. 3	Walling D12	kg	4500		
2.4. 5	Provide all materails and install MS fine screen assembly complete as shown in the drawings and directed by RE.	SQM	25		
2.4. 6	Intall Manhole cover on the sump top slab for access to the sump as shown in the drawings.	No.	2		
2.4. 7	Allow for sump scour pipe 100mm dia x 0.5m long and gate valve	No.	2		

2.4. 8	Provide all materials and install 75mm dia gates valve	No.	2		
2.4. 9	Supply and install a calibrated galvanized steel staff (head ) gauge at the water collection structure	No.	1		
2.5	<b>Pump House</b>				
	<b>Bush Clearing and Stub Removal</b>				
2.5. 1	Clear site 25 sq. metres off all tress less than 500mm diameter), bushes, shrubs including stubs removal and dispose off as directed by the R.E	SM	25		
	-				
2.6	<b>Substructures</b>				
	<b><u>Excavate oversite to remove vegetable soil average 150mm deep;wheel and deposit on site n.e. 100M away in permanent spoils heaps</u></b>				
2.6. 1	Excavate for strip footing not exceeding 1.50m deep.	CM	7		
2.6. 2	Back filling selected excavated materials around foundation.	CM	4		
	<b>Hardcore</b>				
2.6. 7	250mm thick filling: deposit, spread, level and compact: to receive blinding	CM	4		
2.6. 8	50mm quarry dust blinding to surface of hardcore.	SM	13		
	<b>Anti-Termite Treatment</b>				
2.6. 9	Chemical anti-termite treatment executed by Rentokil Laboratoties Limited or equal and approved pest control firm under a ten year gurantee, applied to surface of excavation and floor	SM	13		
	<b>Damp-Proof Membrane</b>				
2.6. 10	500mm Gauge polythene damp-proof membrane laid on blindedHardcore with 100mm folded side and end laps (measured net-allow for laps)	SM	13		
	<b>Plain Concrete 1:4:8 mix in:</b>				
2.6. 11	50 mm blinding bed under strip footing	SM	13		
	<b>Reinforced Concrete 1:2:4- 20mm gauge mix in</b>				

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2.6.12	Ground floor slab	SM	13		
2.6.13	Strip Footing	CM	2		
2.6.14	Ground floor beams:	SM	13		
	<b>Reinforcement</b>				
	<b><u>High Tensile Steel Reinforcement to B.S. 4483</u></b>				
2.6.15	Y8mm Bars	NO	6		
2.6.16	Y10mm Bars	NO	8		
	<b><u>Sawn formwork to</u></b>				
2.6.17	Sides and soffits of beams	SM	3		
	<b><u>Medium quarry dressed stone walling in cement and sand (1:3)mortar:20 gauge x 25mm wide hoop iron reinforcement and column-wall ties in every alternate course: to</u></b>				
2.6.18	200 mm walling	SM	3		
	<b><u>Reinforcement</u></b>				
	<b><u>High Tensile Steel Reinforcement to B.S. 4483</u></b>				
2.6.19	BRC MESH A98. Weighing 2.22kg per square metre:200mm laps (measured net) Ground floor slab	SM	13		
	<b><u>ROOFING</u></b>				
	<b><u>Sawn Treated Cypress</u></b>				
2.6.20	75mmx50mm Braces, ties, strut, and posts	LM	27		
2.6.21	100mmx100mm posts	LM	6		
2.6.22	100 x 50mm wall plate	LM	15		
2.6.23	Ragbolt 175x12mm diameter	NO	12		
	<b><u>Wrought Treated Cypress</u></b>				
2.6.24	-200mm x25mm Fascia or barge board	LM	18		

	<b><u>Roof Covering 28 Gauge Corrugated IT'5 Iron Sheeting and Accessories as Manufactured by Gal sheet K Ltd or equal and approved</u></b>				
2.6. 25	Roofing Covering with 1 1/2 Corrugation side laps nailed to timber Purlins with galvanized roofing nails with rubber washers (Measured out and allow for laps)	SM	21		
2.7	<b><u>FINISHES</u></b>				
	<b><u>DOOR</u></b>				
2.7. 1	Provide and install the following purpose made door complete with fittings and locks	NO	1		
2.7. 2	Metallic frame with metallic shutter door of (1000x2100)mm double leaf	NO	1		
2.7. 3	prepare and apply one prime coat to metal surfaces and two finishing coats first grade oil paint	SM	5		
	<b><u>FLOOR</u></b>				
2.7. 4	Cement and sand (1:4) paving: steel trowelled: on concrete	SM	13		
	<b><u>WALL</u></b>				
	12mm lime plaster:steel trowelled finish:on blockwork:to				
2.7. 5	Walls(internal)	SM	13		
	Prepare and apply three coats approved emulsion paint to:				
2.7. 6	Plastered walls	SM	13		
2.7. 7	provide and fit welded mesh size 15mmx15mm as per the drawing and instruction given by the resident engineer	ROLL	1		
	<b><u>Pump</u></b>				
2.7. 8	Allow provisional sum of KES nine million for a submersible pump of flow rate 150 m3/hr with a minimum head of 90 meters or equivalent to be installed at a distance from the Intake as directed by the corresponding drawings and the Engineer. Rates to include solar array, structures, cabling, control panels and any other	LS	1	9,000,000	9,000,00

## Section IV. Tendering Forms

	installation accessories required for the smooth running of the system.				
2.7. 9	Allow provisional sum of KES nine million for a standby pump of flow rate 150 m3/hr with a minimum head of 90 meters or equivalent to be installed at a distance from the Intake as directed by the corresponding drawings and the Engineer. Rates to include solar array, structures, cabling, control panels and any other installation accessories required for the smooth running of the system.	LS	1	9,000,000	9,000,000
<b>TOTAL BILL CARRIED OVER TO GRAND SUMMARY</b>					

### BILL OF QUANTITIES FOR CONSTRUCTION OF BULLA CADEY IRRIGATION SCHEME IN GARISSA COUNTY

Item	Description	Unit	Qty	Rate	Amount
<b>3</b>	<b>Bill No. 3 - Conveyance works</b>				
<b>3.1</b>	<b>Pipeline works (Main Conveyance)</b>				
<b>3.1.1</b>	Bush clearing of pipeline area 2 m wide	SM	15,000		
<b>3.1.3</b>	Excavate in normal soils 1.2 m depth by 1 m width by 3,000m length and backfill	CM	4,800		
<b>3.1.3</b>	Excavate in hardrock soils 1.2 m depth by 1 m width by 2,500m length and backfill	CM	3,600		
<b>3.1.2</b>	Borrow suitable soil material from an approved site and backfill as directed by the RE.	CM	2,800		
<b>3.1.5</b>	Purchase, supply, lay and backfill of 315mm HDPE PN16 pipeline with suitable material	LM	5,500		
<b>3.1.4</b>	Purchase, supply & install of 90° bends of 315mm	No.	4		
<b>3.1.4</b>	Construct and install anchor/thrust blocks as shown in the drawings	No.	4		
<b>3.1.5</b>	Construct and install marker posts every 100 m	No.	57		
<b>3.1.1</b>	Purchase, supply & installation of 315mm valves sockets	No.	13		

<b>3.1.</b> <b>4</b>	Purchase, supply & installation of 315mm sluice valves	No.	4		
<b>3.1.</b> <b>1</b>	Purchase of air valves and install as directed by the RE.	No.	10		
<b>3.1.</b> <b>1</b>	Construct manholes, complete with a manhole cover as directed by the RE.	No.	15		
<b>3.1.</b> <b>3</b>	Construct gully crossing pillars as directed by the RE.	No.	3		
<b>3.2</b>	<b>Pipeline works (Main)</b>				
3.2. 1	Purchase, supply, lay and backfill of 315 HDPE PN12 pipeline with suitable material	LM	1,910		
3.2. 2	Ditto 280 mm	LM	912		
3.2. 3	250 mm	LM	54		
3.2. 4	225 mm	LM	1,437		
3.2. 5	100 mm	LM	868		
3.2. 6	Purchase, supply & installation of 6" valves sockets	No.	13		
3.2. 7	Purchase, supply & installation of 6" sluice valves	No.	4		
3.2. 8	Purchase of air valves and install as directed by the RE.	No.	10		
3.2. 9	Construct manholes, complete with a manhole cover as directed by the RE.	No.	15		
<b>3.3.</b>	<b>Pipeline works (Sub Main)</b>				
<b>3.3.</b> <b>1</b>	Bush clearing of pipeline area 2 m wide	SM	16,00 0		
<b>3.3.</b> <b>8</b>	Excavate in normal soils 1 m depth by 0.5 m width by 16000 m length and backfill	CM	8,000		
<b>3.3.</b> <b>1</b>	Purchase, supply, lay and backfill of 4" HDPE PN12 pipeline with suitable material	LM	16,00 0		
<b>3.3.</b> <b>3</b>	Ditto 140	LM	326		

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<b>3.3.5</b>	125 mm	LM	550		
<b>3.3.2</b>	110 mm	LM	216		
<b>3.3.2</b>	90 mm	LM	210		
<b>3.3.9</b>	75 mm	LM	94		
	Submain 2				
<b>3.3.6</b>	225 mm	LM	63		
	Sub main 3				
3.3.7	110 mm	LM	501		
	Sub main 4 a				
3.3.8	220 mm	LM	200		
3.3.9	110 mm	LM	1,529		
	Sub main 4b				
3.3.10	200 mm	LM	505		
3.3.11	180 mm	LM	485		
3.3.12	160 mm	LM	327		
3.3.13	140 mm	LM	201		
3.3.14	110 mm	LM	439		
	Sub main 5				
3.3.15	90 mm	LM	392		
3.3.16	75 mm	LM	251		
3.3.17	50 mm	LM	75		
	Sub main 6				

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3.3. 18	296 mm	LM	225		
3.3. 19	140 mm	LM	718		
3.3. 20	110 mm	LM	146		
3.3. 21	90 mm	LM	193		
3.3. 22	75 mm	LM	438		
3.3. 23	63 mm	LM	116		
	Submain 7				
3.3. 24	75 mm	LM	296		
3.3. 25	50 mm	LM	130		
	Submain 8				
3.3. 26	110 mm	LM	743		
	Submain 9				
3.3. 27	110 mm	LM	30		
3.3. 28	90 mm	LM	435		
	Submain 10				
3.3. 29	180 mm	LM	9		
3.3. 30	160 mm	LM	320		
3.3. 31	140 mm	LM	300		
3.3. 32	100 mm	LM	239		
3.3. 33	90 mm	LM	159		
3.3. 34	75 mm	LM	162		

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3.3.35	110 mm	LM	39		
3.3.36	50 mm	LM	300		
	Submain 11				
3.3.37	160 mm	LM	234		
3.3.38	75 mm	LM	10		
	Submain 12				
3.3.39	160 mm	LM	175		
3.3.40	140 mm	LM	374		
3.3.41	110 mm	LM	108		
3.3.42	90 mm	LM	88		
3.3.43	75 mm	LM	102		
3.3.44	50 mm	LM	100		
3.3.45	Provide for a T connection 6" to 4" to connect the main to sub main pipelines	No.	12		
3.3.46	Purchase, supply & installation of 4" sluice valves	No.	12		
3.3.47	Purchase of air valves and install as directed by the RE.	No.	15		
3.3.48	Construct manholes, complete with a manhole cover as directed by the RE.	No.	15		
3.3.49	Construct gully crossing pillars as directed by the RE.	No.	3		
<b>3.4</b>	<b>Pipeline works (Feeder)</b>				
<b>3.4.1</b>	Bush clearing of pipeline area 2 m wide	SM	18,00 0		
<b>3.4.2</b>	Excavate in normal soils 1 m depth by 0.5 m width by 9,000 m length and backfill	CM	4,500		

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3.4. 3	Purchase, supply, lay and backfill of 2" HDPE PN12 pipeline with suitable material	LM	9,000		
3.4. 5	ditto Submain 1 feeder 1				
<b>3.4. 1</b>	110 mm	LM	30		
<b>3.4. 2</b>	75 mm	LM	200		
3.4. 3	50 mm	LM	60		
3.4. 5	50 mm	LM	240		
	Submain 2 feeder 1				
3.4. 6	225 mm	LM	63		
3.4, 7	220 mm	LM	192		
3.4. 8	75 mm	LM	126		
3.4. 7	50 mm	LM	30		
3.4, 8	63 mm	LM	30		
	Submain 3 feeders				
3.4. 9	50 mm	LM	150		
	Submain 4A feeders				
3.4. 10	200 mm	LM	30		
3.4. 11	75 mm	LM	60		
3.4. 12	50 mm	LM	90		
	Submain 4b feeders				
3.4. 13	63 mm	LM	41		
3.4. 14	50 mm	LM	41		

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3.4. 15	50 mm	LM	30		
3.4. 16	75 mm	LM	5		
3.4. 17	63 mm	LM	174		
3.4. 18	50 mm	LM	39		
3.4. 19	59 mm	LM	30		
3.4. 20	75 mm	LM	30		
3.4. 21	110 mm	LM	30		
3.4. 22	50 mm	LM	30		
3.4. 23	75 mm	LM	120		
3.4. 24	75 mm	LM	90		
3.4. 25	63 mm	LM	150		
3.4. 26	75 mm	LM	90		
3.4. 27	75 mm	LM	90		
3.4. 28	75 mm	LM	90		
3.4. 29	50 mm	LM	120		
3.4. 30	63 mm	LM	90		
3.4. 31	75 mm	LM	30		
3.4. 32	90 mm	LM	120		
3.4. 33	110 mm	LM	210		
3.4. 34	63 mm	LM	60		
3.4. 35	63 mm	LM	90		

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	Submain 5 feeders				
3.4. 36	50 mm	LM	350		
	Submain 6 feeders				
3.4. 37	75 mm	LM	42		
3.4. 38	50 mm	LM	85		
3.4. 39	50 mm	LM	30		
3.4. 40	63 mm	LM	60		
3.4. 41	50 mm	LM	30		
3.4. 42	50 mm	LM	333		
3.4. 43	90 mm	LM	208		
3.4. 44	75 mm	LM	90		
3.4. 45	75 mm	LM	60		
3.4. 46	75 mm	LM	38		
3.4. 47	75 mm	LM	90		
3.4. 48	54 mm	LM	30		
3.4. 49	63 mm	LM	60		
	Submain 7 feeders				
3.4. 50	50 mm	LM	90		
	Submain 8 feeders				
3.4. 51	50 mm	LM	99		
3.4. 51	63 mm	LM	60		
3.4. 52	63 mm	LM	30		

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	Submain 9				
3.4. 53	50 mm	LM	60		
3.4. 54	75 mm	LM	30		
	Submain 10				
3.4. 56	50 mm	LM	60		
3.4. 57	75 mm	LM	134		
3.4. 58	50 mm	LM	150		
3.4. 59	75 mm	LM	60		
3.4. 60	50 mm	LM	30		
3.4. 61	75 mm	LM	90		
	Submain 11 feeders				
3.4. 62	50 mm	LM	30		
3.4. 63	90 mm	LM	90		
	Submain 12 feeders				
3.4. 64	63 mm	LM	90		
3.4. 65	75 mm	LM	120		
3.4. 66	75 mm	LM	60		
3.4. 67	50 mm	LM	60		
3.4. 68	50 mm	LM	30		
3.4. 69	50 mm	LM	30		
3.4. 70	50 mm	LM	90		

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3.4. 71	75 mm	LM	90		
3.4. 72	75 mm	LM	90		
3.4. 73	75 mm	LM	69		
3.4. 74	63 mm	LM	60		
3.4. 75	50 mm	LM	1,920		
3.4. 76	Provide for a T connection 4" to 2" to connect the main to sub main pipelines to feeders	No.	272		
3.4. 77	Provide for a Reducing valve 4" to 2" to connect the sub main to feeders pipelines.	No.	272		
3.4. 78	Provide for a Reducing valve 2" to 1" to connect feeders to the farm gate	No.	272		
3.4. 79	Purchase, supply & installation of 2" sluice valves	No.	4		
3.4. 80	Purchase of air valves and install as directed by the RE.	No.	10		
3.4. 81	Provide for Washouts at the lowest points	No.	15		
3.4. 82	Provide for Hydrants for each feeder to the farmer	No.	272		
3.4. 83	provide for single and double acting air valves at high points along the raising main, conveyance and sub main	No.	50		
3.4. 84	Provide for valves Chambers	No.	30		
<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Qty</b>	<b>Rate</b>	<b>Amount</b>
	<b>Bill No. 4 - Masonry tanks x 2</b>				
4.1	<b>Earthworks (Provisional)</b>				
4.1. 1	Allow for general site clearance including removal of trees (provisional)	M2	200.00		
4.1. 2	Strip top soil 200mm from ground level over the area of tank and remove all the spoil to a temporary soil heap.	M2	200.00		

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4.1. 3	Trim, spread and level the ground around the tank to form suitable drainage of surface water.	M2	67.00		
4.1. 4	Excavate from the stripped level to a depth not exceeding 1.5m deep and dispose of the materials 50m away from the foundation, allowing the use of selected excavated materials for fill or back fill as required.	M3	227.00		
4.1. 5	Extra over excavation for excavating in rock item 1.03(Provisional)	M3	34.00		
4.2	<b>Hardcore filling as per specifications</b>				
4.2. 1	Provide, place and compact hardcore of approved quality 500mm thick to make up levels.	M3	167.00		
4.2. 2	Blind the surface of the hardcore using, 50mm layer of 1:4:8 concrete mix to make up levels under floor slab.	M3	20.00		
4.2. 3	Provide and place 500gauge polythene sheet to the surface of blinded hardcore.	M2	150.00		
4.2. 4	Ditto to roof cover slab.	M2	174.00		
4.3	<b>Concrete works (Provide materials, handle, mix and place)</b>				
	Vibrated 1:2:4 concrete mix as described to				
4.3. 1	150mm thick floor slab.	M3	47.00		
4.3. 2	Ditto to 150mm thick roof slab	M3	40.00		
4.3. 3	Ditto to outlet/inlet pipes anchorage including inlet and outlet valve chambers and column.	M3	7.00		
			0.00		
4.4	<b>Reinforcement Bars</b>		0.00		
4.4. 1	12mmΦ high yielding reinforcement bars to the roof slab and column	Kg	534.00		
4.4. 2	Ditto to the floor slab.	Kg	534.00		
4.4. 3	8mmΦ mild steel circumferential bars bent to average radius of 2875mm.	Kg	400.00		

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4.4. 4	10mmΦ mild steel reinforcement bars to valve chamber cover slabs	Kg	54.00		
4.4. 5	Allow for binding wire to items 6.12,6.13,6.14 and 6.15	Kg	60.00		
4.5	<b>Shuttering/Formwork</b>				
4.5. 1	Provide sawn timber form work to soffit of roof slab including the inlet /outlet valve chambers and columns	SM	240.0 0		
4.5. 2	Provide, cut and fix ply wood to the edges of 150mm thick floor slab	SM	27.00		
4.5. 3	Ditto to edges of roof slab	SM	20.00		
4.5. 4	Sawn timber formwork 150mm wide to the edges of manhole opening including the outlet and inlet valve chambers.	M	70.00		
4.5. 6	Provide and place good quality timber struts/poles support to roof slab average size 100mmΦ and 3000mm long	No	500.0 0		
4.6	<b>Concrete block Walling (Provide materials, handle, mix motar as per specifications and construct the follwing)</b>				
4.6. 1	225mm thick concrete block walling in 1:1:3 cement: water proof cement: sand mortar ratio between the joints.	SM	455.0 0		
4.6. 2	Provide and install bondex seal in the joints as per the instructions	Item	1.00		
4.6. 3	Install a double layer of bitumen coat between surface of masonry wall and floor/roof slab	Item	1.00		
4.6. 4	Construct and complete valve chamber in concrete masonry block measuring 1200mm x1200mmx1000mm deep complete with steel plate cover including locking device.	No	1.00		
4.7	<b>Finishes (Provide all materials, handle, mix and apply)</b>				

4.7. 1	20mm thick 1:3 cement :sand mortar screed including water proof cement to floor slab	SM	134.0 0		
4.7. 2	Ditto rendering to the interior surface of the concrete block walls	SM	320.0 0		
4.7. 3	Ditto to the exterior surface of the block walls excluding water proof cement	SM	346.0 0		
4.7. 4	20mm thick 1:3 cement: sand mortar screed to the exterior surface of the roof slab.	SM	160.0 0		
<b>4.8</b>	<b>Metal work and miscellaneous</b>				
4.8. 1	Supply and install internal and external tank ladder fabricated on stainless steel tubing and include provision and fixing of 25mm G.S pipes extension of ladder top as directed by the Engineer.	No	2.00		
4.8. 2	Supply and install tank manhole cover size 600x450mm fabricated on 3mm thick steel plate including locking device and good quality padlock.	No	2.00		
4.8. 3	Supply and install 100mmΦ bend G.S pipe to air vent as per the drawing	No	2.00		
4.8. 9	100mmΦ G.S pipe threaded on one side and one side lugged and fixed to the top concrete cover slab	M	1.00		
4.8. 10	Provide and tie mosquito gauze to the G.S bend opening to air vents above the tank roof cover slab.	No	2.00		
<b>4.9</b>	<b>Paint works</b>				
4.9. 1	Painting works (Rate to include supply)	SM	34.00		
4.9. 2	Apply 2-coats of Bituminous Paint (provisional)	SM	34.00		
<b>4.1</b>	<b>Pipes, Fittings, and Valves</b>				
4.1 0.1	Provisional sum of KES one hundred thousand for provision of pipes given on the drawings, nominal bore not exceeding 150mm	LS	1.00	100,000	100,00 0

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4.1 0.2	Provisional sum of KES one hundred thousand for provision of pipe fittings given on the drawings, nominal bore not exceeding 150mm	LS	1.00	100,000	100,000
4.1 0.3	Provisional sum of KES one hundred thousand for provision of valves given on the drawings, nominal bore not exceeding 100mm	LS	1.00	100,000	100,000
4.1 0.4	Provide, fix and test a ball valve not less than 2" bore diameter	NOS	1.00		
	<b>Summary of 1 masonry tank</b>				
	<b>Summary of 4 masonry tanks</b>				
Item	Description	Unit	Qty	Rate	Amount
5.1.	<b>Bush Clearing and Stub Removal</b>				
5.1.1	Clear site 25 sq. metres off all tress less than 500mm diameter), bushes, shrubs including stubs removal and dispose off as directed by the R.E	SM	25		
	-				
5.2	<b>Substructures</b>				
	<b><u>Excavate oversite to remove vegetable soil average 150mm deep; wheel and deposit on site n.e. 100M away in permanent spoils heaps</u></b>				
5.2.1	Excavate for strip footing not exceeding 1.50m deep.	CM	7		
5.2.2	Back filling selected excavated materials around foundation.	CM	4		
	<b>Hardcore</b>				
5.2.3	250mm thick filling: deposit, spread, level and compact: to receive blinding	CM	4		
5.2.4	50mm quarry dust blinding to surface of hardcore.	SM	13		
	<b>Anti-Termite Treatment</b>				
5.2.5	Chemical anti-termite treatment executed by Rentokil Laboratories Limited or equal and approved pest control firm under a ten year guarantee, applied to surface of excavation and floor	SM	13		
	<b>Damp-Proof Membrane</b>	SM	13		

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5.2. 6	500mm Gauge polythene damp-proof membrane laid on blinded Hardcore with 100mm folded side and end laps (measured net-allow for laps)				
	<b><u>Plain Concrete 1:4:8 mix in:</u></b>				
5.2. 7	50 mm blinding bed under strip footing	SM	13		
	<b><u>Reinforced Concrete 1:2:4- 20mm gauge mix in</u></b>				
5.2. 8	Ground floor slab	SM	13		
5.2. 9	Strip Footing	CM	2		
5.2. 10	Ground floor beams:	SM	13		
	<b><u>Reinforcement</u></b>				
	<b><u>High Tensile Steel Reinforcement to B.S. 4483</u></b>				
5.2. 11	Y8mm Bars	NO	6		
5.2. 12	Y10mm Bars	NO	8		
	<b><u>Sawn formwork to</u></b>				
5.2. 13	Sides and soffits of beams	SM	3		
	<b><u>Medium quarry dressed stone walling in cement and sand (1:3)mortar:20 gauge x 25mm wide hoop iron reinforcement and column-wall ties in every alternate course: to</u></b>				
5.2. 14	200 mm walling	SM	3		
	Reinforcement				
	<b><u>High Tensile Steel Reinforcement to B.S. 4483</u></b>				
5.2. 15	BRC MESH A98. Weighing 2.22kg per square metre:200mm laps (measured net) Ground floor slab	SM	13		
	<b><u>ROOFING</u></b>				
	<b><u>Sawn Treated Cypress</u></b>				
5.2. 16	75mmx50mm Braces, ties, strut, and posts	LM	27		
5.2. 17	100mmx100mm posts	LM	6		

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5.2.18	100 x 50mm wall plate	LM	15		
5.2.19	Ragbolt 175x12mm diameter	NO	12		
	<b><u>Wrought Treated Cypress</u></b>				
5.2.20	200mm x25mm Fascia or barge board	LM	18		
	<b><u>Roof Covering 28 Gauge Corrugated IT'S Iron Sheeting and Accessories as Manufactured by Gal sheet K Ltd or equal and approved</u></b>				
5.2.21	Roofing Covering with 1 1/2 Corrugation side laps nailed to timber Purlins with galvanized roofing nails with rubber washers (Measured out and allow for laps)	SM	21		
5.3	<b><u>FINISHES</u></b>				
	<b><u>DOOR</u></b>				
5.3.1	Provide and install the following purpose made door complete with fittings and locks	NO	1		
5.3.2	Metallic frame with metallic shutter door of (1000x2100)mm double leaf	NO	1		
5.3.3	prepare and apply one prime coat to metal surfaces and two finishing coats first grade oil paint	SM	3		
	<b><u>FLOOR</u></b>				
5.3.4	Cement and sand (1:4) paving: steel trowelled: on concrete	SM	13		
	<b><u>WALL</u></b>				
	12mm lime plaster:steel trowelled finish:on blockwork:to				
5.3.5	Walls(internal)	SM	13		
	Prepare and apply three coats approved emulsion paint to:				
5.3.6	Plastered walls	SM	13		
	provide and fit welded mesh size 15mmx15mm as per the drawing and instruction given by the resident engineer	ROLL	1		
	<b><u>Sub total to carry to summary</u></b>				
Item	Description	Unit	Qty	Rate	Amount
6	Booster Pump				

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6.1	Allow a provisional sum of KES fifteen million for a submerisble pump of flow rate 150 m <sup>3</sup> /hr with a minimum head of 90 meters or equivalent to be installed at a distance from the Intake as directed by the corresponding drawings and the Engineer. Rates to include solar array, structures, cabling, control panels and any other installation accesories required for the smooth running of the system.	LS	2	7,500,000	15,000, 000

**Form of Bid Security (Bank Guarantee)**

Beneficiary: .....

Request for Tenders No: .....

Date: .....

TENDER GUARANTEE No.: .....

Guarantor: .....

1. We have been informed that \_\_\_\_\_ (here in after called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here in after called" the Tender") for the execution of \_\_\_\_\_ under Request for Tenders No. \_\_\_\_\_ ("the ITT").
2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (\_\_\_\_\_) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:
  - (a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or
  - (b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.
4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after

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the end of the Tender Validity Period.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

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[signature(s)]

### **Form of Tender Security (Insurance Guarantee)**

TENDER GUARANTEE No.: .....

1. Whereas .....[*Name of the tenderer*] (hereinafter called "the tenderer") has submitted its tender dated .....[*Date of submission of tender*] for the [*Name and/or description of the tender*] (hereinafter called "the Tender") for the execution of \_\_\_\_\_ under Request for Tenders No. \_\_\_\_\_ ("the ITT").
  
2. KNOW ALL PEOPLE by these presents that WE ..... of .....[**Name of Insurance Company**] having our registered office at ..... (hereinafter called "the Guarantor"), are bound unto ..... [*Name of Procuring Entity*] (hereinafter called "the Procuring Entity") in the sum of ..... (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this \_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:
  - a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Principal; or
  - b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers ("ITT") of the Procuring Entity's Tendering document.

then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our

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receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

---

*[Date]*

---

*[Signature of the Guarantor]*

---

*[Witness]*

---

*[Seal]*

### **Tender Securing Declaration Form**

Date: ..... *[insert date (as day, month and year) of Tender Submission]* .....

Tender No. ..... *[insert number of tendering process]* .....

To: ..... *[insert complete name of Purchaser]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we – (a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.
3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:
  - a) our receipt of a copy of your notification of the name of the successful Tenderer; or
  - b) thirty days after the expiration of our Tender.
4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: ..... Capacity / title (director or partner or sole proprietor, etc.) ..... Name: ..... Duly authorized to sign the bid for and on behalf of: *[insert complete name of Tenderer]*

Dated on ..... day of ..... *[Insert date of signing]* Seal or stamp.

**Self - Declaration Forms**

**FORM SD1**

**SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED  
IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET  
DISPOSAL ACT 2015.**

I, ..... of Post Office Box ..... being a resident of ..... in the Republic of ..... do hereby make a statement as follows: -

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ..... (*insert name of the Company*) who is a Bidder in respect of Tender No. ..... for ..... (*insert tender title/description*) for ..... (*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

.....

(Title) ..... (Signature) .....

.....

(Date)

Bidder Official Stamp

**FORM SD2**

**SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE  
IN ANY CORRUPT OR FRAUDULENT PRACTICE**

I, ..... of P. O. Box ..... being a resident of in the Republic of ..... do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of ..... (*insert name of the Company*) who is a Bidder in respect of Tender No. .... for ..... (*insert tender title/description*) for ..... (*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
  
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of ..... (*insert name of the Procuring entity*) which is the procuring entity.
  
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of ..... (name of the procuring entity)
  
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
  
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

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(Title)

Bidder's Official Stamp

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Signature)

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(Date)

### **Declaration And Commitment To The Code Of Ethics**

I ..... (person) on behalf of *(Name of the Business/ Company/Firm)* ..... declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal and my responsibilities under the Code.

I do hereby commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory ..... Sign .....

Position .....

Office address ..... Telephone .....

E-mail .....

Name of the Firm/Company .....

Date .....

(Company Seal/ Rubber Stamp where applicable)

Witness

Name .....

Sign .....

Date .....

## **Appendix 1- Fraud And Corruption**

### **1. Purpose**

2. The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (no. 33 of 2015) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

### **3. Requirements**

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act (no. 33 of 2015) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior: -

- 1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
- 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
- 3) Without limiting the generality of the subsection (1) and (2), the person shall be:  
-
  - a. disqualified from entering into a contract for a procurement or asset disposal proceeding; or
  - b. if a contract has already been entered into with the person, the contract shall be voidable;
- 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a

## Section IV. Tendering Forms

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procurement: -

- a. shall not take part in the procurement proceedings;
- b. shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
- c. shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

- 6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
- 7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

- a. Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
  - i) "Corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - ii) "Fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
  - iii) "Collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - iv) "Coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - v) "Obstructive practice" is:
    - o deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false

statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

- acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.

b. Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows: "Fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.

c. Rejects a proposal for award<sup>1</sup> of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

d. Pursuant to the Kenya's above stated Acts and Regulations, may sanction or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;

e. Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers),

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<sup>1</sup> *For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.*

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Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

f. Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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*2 Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information*

**Technical Proposal:**

Provide a description of the sections detailed below

1. Site Organization
2. Method Statement
3. Mobilization Schedule
4. Construction Schedule
5. Contractor's Equipment
6. Personnel
7. Others

## **Technical Proposal Forms**

### **Site Organization**

<b>Site Organization</b>
--------------------------

**Method Statement**

<b>Method Statement</b>
-------------------------

**Mobilization Schedule**

<b>Mobilization Schedule</b>
------------------------------

**Construction Schedule**

<b>Construction Schedule</b>
------------------------------

## **Contractor's Equipment**

### **Form EQUIPMENT**

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer. The Tenderer shall provide all the information requested below, to the extent possible. Fields with asterisk (\*) shall be used for evaluation.

<b>Type of Equipment*</b>			
<b>Equipment Information</b>	<b>Name of manufacturer</b>	<b>Model and power rating</b>	
	<b>Capacity*</b>	<b>Year of manufacture*</b>	
<b>Current Status</b>	<b>Current location</b>		
	<b>Details of current commitments</b>		
<b>Source</b>	<b>Indicate source of the equipment</b> <input type="checkbox"/> <b>Owned</b> • <b>Rented</b> • <b>Leased</b> • <b>Specially manufactured</b>		

The following information shall be provided only for equipment not owned by the Bidder.

<b>Owner</b>	<b>Name of owner</b>	
	<b>Address of owner</b>	
	<b>Telephone</b>	<b>Contact name and title</b>
	<b>Fax</b>	<b>Telex</b>
<b>Agreements</b>	<b>Details of rental / lease / manufacture agreements specific to the project</b>	

**Proposed Personnel**

**Form PER – 1**

Bidders should provide the names of suitably qualified personnel to meet the specified requirements for each of the positions listed in Section III, Evaluation and Qualification Criteria. The data on their experience should be supplied using the Form below for each candidate.

<b>1.</b>	<b>Title of position</b>
	<b>Name</b>
<b>2.</b>	<b>Title of position</b>
	<b>Name</b>
<b>3.</b>	<b>Title of position</b>
	<b>Name</b>
<b>4.</b>	<b>Title of position</b>
	<b>Name</b>
<b>5.</b>	<b>Title of position</b>
	<b>Name</b>
<b>6.</b>	<b>Title of position</b>
	<b>Name</b>
<b>etc.</b>	<b>Title of position</b>
	<b>Name</b>

### **Resume of Proposed Personnel**

#### **Form PER - 2**

The Bidder shall provide all the information requested below. Fields with asterix (\*) shall be used for evaluation.

<b>Position*</b>		
<b>Personnel Information</b>	<b>Name *</b>	<b>Date Of Birth</b>
	<b>Professional Qualifications</b>	
<b>Present Employment</b>	<b>Name Of Employer</b>	
	<b>Address Of Employer</b>	
	<b>Telephone</b>	<b>Contact (Manager/Personnel Officer)</b>
	<b>Fax</b>	<b>E-Mail</b>
	<b>Job Title</b>	<b>Years With Present Employer</b>

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

<b>From*</b>	<b>To*</b>	<b>Company, Project, Position, and Relevant Technical and Management Experience*</b>

**Others**

### **Bidder's Qualification**

To establish its qualifications to perform the contract in accordance with Section III, Evaluation and Qualification Criteria, the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder.

**Tenderer Information Sheet**  
**Form ELI - 1.1**

**Tenderer Information Form**

Date: \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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6. Tenderer's Name:
7. In case of Joint Venture (JV), name of each member:
8. Tenderer's actual or intended country of registration:
9. [indicate country of Constitution]
10. Tenderer's actual or intended year of incorporation:
11. Tenderer's legal address [in country of registration]:
12. Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
13. Attached are copies of original documents of <ul style="list-style-type: none"><li>◆ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.6</li><li>◆ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5</li><li>◆ In case of state-owned enterprise or institution, in accordance with ITT 3.8, documents establishing:<ul style="list-style-type: none"><li><input type="checkbox"/> Legal and financial autonomy</li><li><input type="checkbox"/> Operation under commercial law</li><li><input type="checkbox"/> Establishing that the Tenderer is not under the supervision of the Procuring Entity</li></ul></li></ul>
14. Included are the organizational chart and a list of Board of Directors.

**Party to JVCA Information Sheet**  
**Form ELI - 1.2**

Date: \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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1. Tenderer's JV name:
2. JV member's name:
3. JV member's country of registration:
4. JV member's year of constitution:
5. JV member's legal address in country of constitution:
6. JV member's authorized representative information
Name: _____
Address: _____
Telephone/Fax numbers: _____
E-mail address: _____
7. Attached are copies of original documents of
◆ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 3.6.
◆ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 3.8.
8. Included are the organizational chart and a list of Board of Directors.

**Historical Contract Non-Performance****Form CON - 2****Historical Contract Non-Performance, Pending Litigation and Litigation History**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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**Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria**

<input type="checkbox"/>	Contract non-performance did not occur during the stipulated period specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.
<input type="checkbox"/>	Contract(s) not performed during the stipulated period specified in Section III, Evaluation and Qualification Criteria, requirement 2.1

<b>Year</b>	<b>Non-performed portion of contract</b>	<b>Contract Identification</b>	<b>Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)</b>
[insert year]	[insert amount and percentage]	Contract Identification: [indicate complete contract name/ number, and any other identification] Name of Procuring Entity: [insert full name] Address of Procuring Entity: [insert street/city/country] Reason(s) for nonperformance: [indicate main reason(s)]	[insert amount]

**Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria**

<input type="checkbox"/>	No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.
<input type="checkbox"/>	Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.

<b>Year of</b>	<b>Amount in</b>	<b>Contract Identification</b>	<b>Total</b>	<b>Contract</b>
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<b>dispute</b>	<b>dispute (currency)</b>		<b>Amount (currency), Kenya Shilling Equivalent (exchange rate)</b>
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
		Contract Identification: Name of Procuring Entity: Address of Procuring Entity: Matter in dispute: Party who initiated the dispute: Status of dispute:	
Litigation History in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.			
<input type="checkbox"/> Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.			
<b>Year of award</b>	<b>Outcome as percentage of Net Worth</b>	<b>Contract Identification</b>	<b>Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)</b>

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<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Procuring Entity" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
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**Financial Situation**  
**Historical Financial Performance**  
**Form FIN - 3.1**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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<b>Type of Financial information in _____</b>	<b>Historic information for previous _____ years, (amount in currency, currency, exchange rate*, USD equivalent)</b>				
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					

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<b>Type of Financial information in _____</b>	<b>Historic information for previous _____ years, (amount in currency, currency, exchange rate*, USD equivalent)</b>				
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:

- ◆ Must reflect the financial situation of the Bidder or partner to a JVCA, and not sister or parent companies
- ◆ Historic financial statements must be audited by a certified accountant
- ◆ Historic financial statements must be complete, including all notes to the financial statements
- ◆ Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted)

**Average Annual Turnover**

**Form FIN - 3.2**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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<b>Annual Turnover Data (Construction Only)</b>			
<b>Year</b>	<b>Amount Currency</b>	<b>Exchange rate</b>	<b>Kenya Shilling equivalent</b>
[indicate year]	[insert amount and indicate currency]		
Average Annual Construction Turnover *			

\* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

\* Average annual turnover calculated as total certified payments received for work in progress or completed over the number of years specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2, divided by that same number of years.

**Financial Resources**

**Form FIN - 3.3**

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III, Evaluation and Qualification Criteria

<b>No.</b>	<b>Source Of Financing</b>	<b>Amount (Kenya Shilling Equivalent)</b>
1.		
2.		
3.		
4.		

**Current Contract Commitments/Works in Progress**  
**Form FIN - 3.4**

Tenderers and each member to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

<b>No.</b>	<b>Name of Contract</b>	<b>Procuring Entity's Contact Address, Tel,</b>	<b>Value of Outstanding Work [Current Kenya Shilling /month Equivalent]</b>	<b>Estimated Completion Date</b>	<b>Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month)]</b>
1.					
2.					
3.					
4.					
5.					
6.					

**General Experience**

**Form EXP - 4.1**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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<b>Starting Year</b>	<b>Ending Year</b>	<b>Years</b>	<b>Contract Identification</b>	<b>Role of Tenderer</b>
			Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
			Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
			Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	

- List calendar year for years with contracts with at least nine (9) months activity per year starting with the earliest year

**Specific Experience**

**Form EXP - 4.2(a)**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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<b>Similar Contract No.</b>	<b>Information</b>			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor	Member in JV	Management Contractor	Sub-contractor
Total Contract Amount				<b>Kenya Shilling</b>
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:				
Address:				
Telephone/fax number				
E-mail:				

**Specific Experience (cont.)**

**Form EXP - 4.2(a) (cont.)**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

JV Member's Name \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

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Specific Construction and Contract Management Experience (cont.)

<b>Similar Contract No.</b>	<b>Information</b>
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

**Specific Experience in Key Activities**  
**Form EXP - 4.2(b)**

**Construction Experience in Key Activities**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

Tenderer's JV Member's Name \_\_\_\_\_

Sub-contractor's Name<sup>3</sup> (as per ITT 34): \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_ pages

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One:

<b>Information</b>				
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount			<b>Kenya Shilling</b>	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract	Percentage participation (i) (ii)	Actual Quantity Performed (i) x (ii)	
Year 1				
Year 2				
Year 3				
Year 4				

<sup>3</sup> If applicable

## Section IV. Tendering Forms

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	<b>Information</b>
Procuring Entity's Name:	
Address: Telephone/fax number E-mail:	

2. Activity No. Two

3.

**Specific Experience in Key Activities (cont.)**

**Form EXP - 4.2(b) (cont.)**

Tenderer's Name: \_\_\_\_\_

Date: \_\_\_\_\_

Tenderer's JV Member's Name \_\_\_\_\_

Sub-contractor's Name<sup>4</sup> (as per ITT 34): \_\_\_\_\_

ITT No.: \_\_\_\_\_

ITT Title: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_ pages

<b>Similar Contract No. [insert specific number] of [insert total number of contracts] required</b>	<b>Information</b>
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III, Evaluation and Qualification Criteria:	
Amount	
Physical size	
Complexity	
Methods/Technology	
Physical Production Rate	

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<sup>4</sup> If applicable

**2.0 PART 2: EMPLOYER'S REQUIREMENTS**

**2.1 Section V. Requirements**

**Table of Contents**

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## **Technical Specification**

### **Specifications**

Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified will be accepted subject to the Project Manager's prior review and written consent. Differences between the standards specified and the proposed alternative standards shall be fully described in writing by the Contractor and submitted to the Project Manager at least 28 days prior to the date when the Contractor desires the Project Manager's consent. In the event the Project Manager determines that such proposed deviations do not ensure substantially equal or higher quality, the Contractor shall comply with the standards specified in the documents.

## **TECHNICAL SPECIFICATION GENERAL**

### **GENERAL**

#### **General Description of the Works**

The project entails construction of intake works and the distribution system as detailed in the BoQ.

#### **Geographical Location**

Bulla Adey, Garissa Town Constituency, Garissa County.

#### **Drawings and Documents**

The drawings listed in Section 6 of the Tender Documents and any modifications to those drawings and any other drawings that may be prepared by the Contractor and approved by the Engineer shall subsequently become the Contract Drawings.

For the purpose of carrying out the Contract, the Contractor will be provided with 2 sets of the Contract Documents and full size (A1) Contract Drawings.

#### **Drawings Designed by the Contractor**

All drawings, calculations, plans, reports, instruction manuals, pamphlets, data and all other documents required to be submitted by the Contractor under the Contract shall be clear and readable. The Contractor shall submit these drawings and documents in a logical order to the Engineer for review or approval at least fifty six (56) calendar days prior to execution of the Works.

All shop drawings, including field erection, layout and construction details shall be furnished by the Contractor for the approval of the Engineer.

All the drawings and calculation to substantiate the design shall be checked, signed and approved by the Contractor prior to submission. The drawings shall also be signed by a qualified engineer responsible for the design.

Approval of the drawings by the Engineer shall not be construed as a complete check but will indicate only that the general method and detailing is satisfactory. The approval by the Engineer shall not relieve the Contractor of the requirements of the Contract or responsibility for correct installation and assembly of parts in final position or responsibility for the adequacy of

the method of construction.

All the cost thereof will be deemed to be included in the Contractor's unit rates and Contract Price.

### **Standard Specifications**

For convenience, and in order to establish the necessary standards of quality, reference will be made to specifications issued by national or other widely recognised bodies. Such specifications shall be referred to as "Standard Specifications" and shall be the latest editions of such Standard Specifications issued prior to the issue of Tender Documents, together with such additions and amendments as may have been issued prior to the same date.

Subject to the written approval of the Engineer, any other internationally accepted standard which requires an equal quality of work may be used.

In referring to Standard Specifications, the following abbreviations are used:

BS	British Standard
ISO	International Organisation for Standardisation
AASHTO	American Association of State Highways and Transportation Officials ASTM American Society for Testing and Materials
ASA	American Standards Association KS Kenya Standard
EN	Normalised European Standards

In cases where no particular Specification or Standard is given for any article or material to be used in the Contract the relevant Specification of the British Standards Institution or other relevant Standard shall apply unless otherwise stated. The latest version of the standards referred to shall be used where applicable.

If the Contractor proposes to use a Standard Specification other than that specified, three copies of the proposed Standard Specification, in the English Language, shall be submitted to the Engineer not less than 28 days before approval of the Standard Specification is required.

### **Site Meetings**

## Section V. Requirements

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The Contractor shall be obliged to attend all meetings at the appointed time. The discussions of such meetings shall include but not be limited to the progress of work and problems having direct bearing on the immediate and long term activities (construction, procurement, transport, labour etc.).

The Engineer shall invite the Employer for such meetings.

### **Progress Photographs**

The Contractor shall furnish the Engineer with coloured photographs (not less 8 cm x 120 cm size) of the work in progress throughout the Contract period. The photographs shall be taken at the start, during and at the completion of each major task of the work as directed by the Engineer. A brief description and date of each photograph shall be included.

The Contractor shall make a soft copy of all the photos. This copy will be retained on the site and on completion of the Works the negatives shall become the property of the Employer.

The Contractor shall supply cameras to the Engineer for taking of photographs

### **Level Datum**

The survey control points and bench marks shown on the drawings shall be handed over to the Contractor as basis for surveying and setting out of the Works. The Contractor shall be responsible for carrying out the field surveys for the performance of the Works.

Before using the control points and bench marks for setting out of the Works, the Contractor shall carry out a check survey thereon and satisfy himself as to their accuracy. The Employer shall bear no responsibility for the accuracy of any control point or bench mark.

The Contractor may establish additional temporary bench marks for his own convenience but each temporary bench mark shall be of a design and in a location approved by the Engineer and shall be accurate in relation to the bench marks established by the Engineer.

The Contractor shall protect the reference points and level bench marks and in the event of any damage he shall re-survey and re-establish the points and bench marks all to the satisfaction of the Engineer.

### **Setting Out**

The Contractor shall appoint and employ the necessary qualified and experienced staff to set out the Works accurately. The Contractor shall establish and locate all lines and levels and be responsible for the correct location of all Works.

Where directed by the Engineer, the Contractor shall take such levels and dimensions as may be required for the purposes of measurements prior to disturbance of the ground. These shall be agreed between the Contractor and the Engineer in writing before any of the surface is disturbed or covered up.

### **Construction and Checking of Work**

The Contractor shall be solely responsible for and shall provide all labour, tools, lifting tackle and other equipment required for the construction and checking of the Works.

No operatives shall be allowed to execute any type of work, which is normally carried out by a skilled tradesman, unless the operative is thoroughly experienced and proficient in the trade concerned. Supervisors and operatives may be required to demonstrate their proficiency or produce certificate of competence to the satisfaction of the Engineer.

As each part of the work is carried out it shall be subject to the approval by the Engineer.

### **Supervision and Labour**

The Contractor will be required to maintain a competent supervising Site Agent and staff on site throughout the construction period until completion of the Works, and thereafter as may be required during the period of maintenance. The Engineer shall give prior approval to the appointment of this supervising Site Agent and shall have authority to withdraw this approval at any time in accordance with the Conditions of Contract.

All staff and labour employed on the Works shall be employed in accordance with the local labour and employment laws and regulations.

### Works Executed by the Employer or by other Contractors

The Employer reserves the right to execute, on the site, works not included under this Contract and to employ for this purpose either his own employees or other contractors whose contracts may be either a subcontract under this Contract, or an entirely separate contract. The Contractor shall ensure that neither his own operations nor trespass by his employees shall interfere with the operations of the Employer, or his contractors employed on such works and the same obligations shall be imposed on the Employer or other contractors in respect of work being executed under this Contract.

### **Definition and Use of the Site**

#### **Definition of the Site**

The Site shall include all those areas of land which, being public or private:

- a) Are being provided by the Employer for the purpose of constructing the permanent works.
- b) Are being provided by the Employer or leased by the Contractor for Temporary Works, including camps, offices and stores.
- c) Are acquired, leased, or operated by the Contractor as borrow pits or spoil tips for the Permanent Works, including all access roads.

#### **Use of the Site**

The lands and other places outside the Site which are the property of or under the control of the Employer shall not be used except with the approval of the Engineer.

The Contractor shall at any time remove any vehicle or vessel or any other obstruction under his control that may be required to be removed by the Engineer for any purpose. The Contractor shall move such obstruction promptly on instruction being given.

The Contractor shall maintain access for the inspection, operation and maintenance of any of the Employer's plant or works which lies within the Site or elsewhere.

The Contractor shall not use any portion of the Site for any purpose not connected with the Works unless the written permission of the Engineer has been obtained.

Except with the written permission of the Employer, to be given when necessary for the execution of the Works, the Contractor's employees will not be permitted to enter any of the Employer's buildings or lands or sites under the control of other contractors or the Engineer. The Contractor shall warn his employees that any person found within such buildings or sites without authority is liable to be removed from the Works in accordance with the Conditions of Contract.

### **Possession of the Site**

The Contractor shall restrict his activities to those areas of the Site adjacent to the works being executed and shall avoid any encroachment upon lands outside the areas for which possession has been given. Any trespass or damage or any claim arising from such encroachment shall be the Contractor's sole responsibility and he shall hold the Employer indemnified against all claims arising from such trespass or damage.

### **Interference with the Works**

The Contractor shall not interfere in any way with any existing works, whether the property of the Employer or of a third party, whether or not the position of such works is indicated to the Contractor by the Engineer, except where such interference is specifically described as part of the Works, either in the Contract or in an instruction from the Engineer.

### **Material for the Works**

All material shall comply with appropriate Standard Specifications unless otherwise required hereinafter.

The Contractor shall, before placing any order of materials, manufactured articles or machinery for incorporation in the Works, submit for the approval of the Engineer the names of the suppliers from whom he proposes to obtain such materials, manufactured articles or machinery, together with a list of the same, giving the origin, quality, weight, strength, description and other relevant details. No materials, manufactured articles

or machinery shall be ordered or obtained from any suppliers which the Engineer has not approved in writing.

All materials shall be delivered to the Site a sufficient period of time before they are required for use in the Works, to enable the Engineer to take such samples as he may wish for testing and approval.

Notwithstanding the fact that approval has been given to the source of supply, the Engineer may forbid the use of any materials if, upon delivery, they are found to be defective, or he considers them unsuitable for incorporation in the Works. Such rejected materials shall be removed from the site forthwith.

The Contractor may propose alternative materials of equivalent quality to those specified, and subject to the approval, such materials may be used in the Works.

The Contractor shall have no claim against the Employer in respect of any financial loss which he may suffer as a result of the rejection of any such materials, and he shall also bear the cost of removing them from the Site.

The Engineer shall have the right to inspect materials and plant for the permanent works during the course of manufacture. The Contractor shall arrange for the right of access to manufacturing premises for the Engineer and his staff during normal working hours. The Engineer shall be given sufficient notice by the Contractor to allow him to observe the testing of any materials for the works at the place of manufacture. The Engineer shall also be given the opportunity to inspect any material or plant in their completed state prior to packing for transport to the site.

If requested by the Engineer, the Contractor shall provide to the Engineer copies of orders for the supply of goods or materials required in connection with the works.

### **Rejected Materials and Defective Work**

Materials or work which, in the opinion of the Engineer, do not comply with the Specification, shall be classified as rejected materials or defective work, and shall be cut out and removed from the Works and replaced as directed by the Engineer.

## **Existing Works and Services**

The Contractor shall acquaint himself with the positions of all existing works and services including water mains, stormwater drains, cables, and service poles before any excavation are commenced.

The Contractor will be held responsible for any damage, however caused, in the course of the execution of the Works, to such existing works and services.

Such existing works and services, where exposed by the execution of the works, shall be properly shored, hung-up and supported to the satisfaction of the Engineer and of the authority concerned.

Poles supporting cables and the like adjacent to the Works shall be kept securely in place until the Works are completed and shall then be made as safe and permanent as before.

Notwithstanding the foregoing requirements and without lessening the Contractor's responsibility, the Contractor shall inform the Engineer immediately any existing works have been exposed and shall comply with any requirements of the authority concerned.

Only when and as directed by the Engineer shall the position of existing works or services be changed by the Contractor to meet the requirements of the proposed work.

The Contractor shall make adequate provision so that when carrying out his work, no interference, damage or pollution is caused to roads and footpaths, or to any mains, drains, and the like or other parts of the Works. Wherever loads have to be carried over ground in which pipes, valves, culverts, and the like are buried, the Contractor shall take all precautions including where necessary, the provision and use of sleepered roads, light gauge railways or other means to prevent damage occurring to such underground works. The Contractor shall not store any plant or materials or spoil heaps over existing water mains, or in such positions that interference with access to the mains, control gates and the like, is created. Approval by the Engineer to the means of protection employed shall not relieve the Contractor of any responsibility in respect of damage occasioned by his operations.

The laying of pipework, ducts, drains, and the like shall be arranged so as to cause as little interference as possible with the smooth operation of existing works.

When breaking out and making good existing structures, the Contractor shall disturb the existing structures as little as possible. All structures shall be made good with materials similar to those used in the existing works, or such materials which are considered by the Engineer to be of similar appearance and suitable in all other respects.

### **Existing Access**

Existing access to lands, property and all other places shall be maintained by the Contractor during the continuance of the Works to the Engineer's satisfaction.

### **Liaison with Police and other Officials**

The Contractor shall keep in close contact with the police and other officials in the areas concerned regarding their requirements for the control of workmen, movement of traffic, or other matters and shall provide all assistance and facilities which may be required by such officials in the execution of their duties.

### **Water and Power for Use on the Works**

The Contractor shall be solely responsible for the location, procurement and maintenance of a water supply adequate in quality and quantity to meet his obligations under the Contract.

The Contractor shall be solely responsible for the location and continuity of the supply of water for use on the Works. Supplies may be derived from rivers and streams, but shall in all cases be to the Engineer's approval, and the abstraction of water from any sources shall not interfere with any permanent water supply and be to the requirements and permitted by Water Resources Management Authority (WRMA). The Contractor shall be solely responsible for the transporting of water from its source to the point at which it is required for construction purposes, and in such quantities and quality as to enable the Works to proceed without hindrance due to the shortage of adequate water supplies.

## Section V. Requirements

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The Contractor shall make his own arrangements for power supplies and shall be solely responsible for the location, procurement and maintenance of a power supply, adequate to meet his obligations under the Contract.

The Contractor shall make his own arrangements for the supply of adequate safe drinking water, electricity and other services to the Permanent Works, Temporary Works and plant and shall provide and maintain all pipes, cables and fittings which may be necessary to carry such services to his operations

### **Employer as a Supplier of Water and Power**

The position of the Employer or his Agent as a supplier of water or power shall be identical with that of other suppliers, and quite separate from his position as Employer under the Contract. As in the case of a supplier, a failure on the part of the Employer or his Agent to supply water or power will not relieve the Contractor of any of his obligations under the Contract, nor, in respect of any such failure, shall the Contractor have any claim under the Contract against the Employer.

### **Inspection by Engineer during Period of Maintenance**

The Engineer will give the Contractor due notice of his intention to carry out any inspection during the period of maintenance. The Contractor shall, upon receipt of such notice, arrange for responsible representatives to be present at the times and dates named by the Engineer. This representative shall render all necessary assistance and shall take note of all matters and things to which his attention is directed by the Engineer.

### **Tracked Plant**

The Contractor's tracked plant may not be run on any public or private road without the written permission of the owner or authority concerned.

### **Fuel Supplies**

The Contractor shall arrange for obtaining, storing and distributing all fuel oils required for the completion of the Works. The storage of fuel on site shall comply with the Petroleum Act and Factories Act applicable in Kenya. Copies of this can be purchased by the Contractor at the Government Printers.

### **Preservation of Trees**

No tree shall be removed without prior written permission of the Engineer who will limit the removal of trees to the minimum necessary to accommodate the Permanent Works.

If trees are removed or damaged by the Contractor or his employees, without approval, then the Contractor shall replace such trees.

Replacement of trees shall not be with seedlings less than two years of age, obtained from a reputable nursery and of a species approved by the Engineer. The Contractor shall plant, water and ensure that the replacement trees are properly established, all at his own costs.

### **Protection from Water**

The Contractor shall keep the whole of the Works free from water and shall be deemed to have included in his Contract Sum all costs for pumping, shoring, temporary drains, sumps and other measures and provisions necessary for such purposes and for clearing away and making good to the satisfaction of the Engineer any damage caused thereby.

### **Protection against Fires**

The Contractor is advised that, at all times, it is necessary to guard against fires starting within the Site or in the environs thereof, particularly as the result of the Works or from the actions of his employees. The Contractor shall have available, at all times, a trained fire-fighting team provided with adequate fire-fighting equipment and shall deal with all fires on the Site howsoever caused.

The Contractor shall be responsible for maintaining qualified fire fighting crew on the Site at all times as well as maintaining an efficient fire alarm system. The Contractor shall also submit a fire prevention and fire fighting program for the Engineer's approval.

The Contractor shall provide suitable and adequate fire fighting equipment, to the satisfaction of the Engineer, for ready use at all the times in all the Engineer's site establishment including Contractor's residential quarters, labour camps and ancillary buildings. These shall be maintained until the

completion of the construction and handing over of the works to the Employer.

The Contractor shall comply with laws and regulations such as Occupational Health and Safety Act 2007 legislation and any other legislations and regulations regarding fires and with respect to the prevention of fires. No fire may be lit in the dry season without written permission from the Engineer and/ or the relevant Authority.

### **Safety Precautions**

The Contractor shall adhere to the current legislative requirements from Factories Inspectorate, Ministry of Labour, in respect of the appointment of Safety Supervisors on Building and Works of Engineering Construction. In accordance with these requirements, the Contractor shall appoint a Safety Supervisor who shall be qualified in safety and familiar with the works being performed. The Safety Officer shall ensure that adequate measures and rules for the protection of health and safeguarding against accidents are enforced.

The Contractor shall take all necessary precautions against risks of loss of life or of injury to any person employed on the Works or to employees of the Employer and to the Engineer or to visitors or to persons having good and sufficient reasons to be about the Works, and to this end he shall properly safeguard the Works to the satisfaction of the Engineer and in accordance with the Occupational Health and Safety Act 2007 legislation and any other legislations that govern safety at construction sites in Kenya.

The Contractor shall at all times comply with any accident prevention regulations and any safety regulations peculiar to the various trades employed on the Works, and any safety regulations published by the Government.

The Contractor shall report promptly to the Engineer all accidents involving the death of or serious injury to any person on the Site or resulting from the Contractor's operations.

The Contractor shall, at his own expense, educate all his employees on safety precautions based on good practice on site. This shall be done in both English and Kiswahili languages. Safety instructions shall deal with all

safety measures including but not be limited to the following; protective clothing, helmets and footwear, use of lifting equipment, precautions against electrical shock, welding, routine procedures in case of accidents, fires, etc., watchmen, warning notices and barriers, use of drilling equipment and dust suppression and use and storage of explosive.

### **Explosives and Fuels**

The Contractor shall make arrangements to transport, store and handle explosives and fuels in a safe manner for protecting the public in accordance with the laws and security regulations in force in the Republic of Kenya. In this regard, he shall submit a program to the Engineer for approval for the safe handling and storage of explosives and fuels. The programme shall be accompanied by material data sheets for each of the explosives and fuels. When approved, the Contractor shall issue a copy to each of his personnel involved with the handling of explosives and fuels.

The Contractor shall obtain all necessary licenses and shall pay all fees and charges in respect of the same as may be necessary for the purpose of moving explosives and fuels from place to place and storing the same, and shall make all applications and obtain approvals from the relevant authorities of the Government of Kenya.

The Contractor shall construct his explosives magazines at locations and in a manner complying with the relevant regulations of Kenya and approved by the Engineer. Detonators and fuse shall be stored in a separate magazine away from explosives. In no case shall they be transported in the same vehicle with explosives.

The Contractor shall provide adequate protective facilities to safely store and to prevent the loss or theft of explosives. Overnight storage of explosives and detonators outside of the magazines will not be permitted. Magazines shall be securely locked when not in use.

The Contractor shall maintain an inventory record of storage and withdrawal of all explosives including detonators. This record shall be available to the Engineer, and the Engineer shall be promptly notified of any loss or theft of explosives.

The Contractor shall supply and install sirens and loudspeakers systems, so that adequate warning may be given to all persons who may be endangered when explosives charges are to be fired. The Contractor shall ensure, prior to discharging explosives, that the area to be blasted is clear of all workmen, residents, pedestrians etc. in addition he shall post flagmen on each of the roads entering the said area so as to stop and prevent any traffic from entering into the area until "all clear" notification is given.

During thunderstorms and other electrical disturbances, no charging and firing will be permitted.

### **Above Ground Fuel Storage Tanks**

The fuel storage tank shall comply with BS 21, 1387, 799, 2594 and 5410 and shall have internal working pressure up to and including 0.4 bar, measured at the top of the tank, and a maximum internal vacuum of 10 mbar. Unless otherwise shown on the drawings, the tank shall have a manhole whose centre shall be 450 mm from one end. Filling point shall be fitted to the highest point in the tank shell and vent and dip point shall be fitted preferably at the centre of the manhole lid. The Contractor shall supply the dip stick.

The drain point shall be fitted at the lowest point in the tank and flush with the inside of the shell. This shall be at a minimum of 150 mm from the ground level. The draw off shall be welded near the base of the tank on the vertical centre-line and at the opposite end to the drain.

The tank shall be suspended from the ground by saddle supports and the bond between the tank and the supports shall be broken by application of bituminous paint on the tank and the saddles. The tank shall be fitted with lifting tugs /hooks of sufficient strength at locations shown on the drawings. The location of the tank shall be firm ground with reinforced concrete slab with a provision of catch pits and sumps of sufficient capacities and to the satisfaction of the Engineer. A bund wall shall be provided round the hard standing concrete slab.

The tank shall be earthed in accordance with BS 7430 AND 6651. The earth system

shall terminate with copper earth rod in earth test pit.

## **Watching, Fencing and Lighting**

The Contractor shall employ competent watchmen to guard the Works both by day and night.

Any excavations, material dumps, spoil dumps or other obstructions likely to cause injury to any person or thing shall be suitably fenced off and at night marked by red warning lights.

Fences shall consist of at least three 15 millimetres diameter hemp ropes or 4mm diameter wires, or more if required, stretched tightly between poles, and standards securely planted in solid ground, well clear of the excavation. The poles, and standards shall not be more than 15 metres apart, and where circumstances require, they shall be placed closer. Ropes or wires shall be stretched tight approximately 0.4 metres, 0.8 metres and 1.2 metres respectively above the ground. Banks of spoil may be accepted by the Engineer in lieu of fencing if of suitable height and form.

Fences and spoil banks shall be clearly marked at the ends, all corners, and along the length at intervals of not more than 15 metres by means of white limewashed boards, discs, stones or oil drums during the daytime and by red lamps burning at night. Markers shall be freshly limewashed at regular intervals to ensure that they are white and clean.

If a road is closed, or partly closed to traffic, temporary traffic and barricades shall be erected by the Contractor to the satisfaction of the Engineer and the police, or other relevant authority, to give proper warning to traffic and the public. Lettering on road signs shall be black on a yellow background and shall incorporate reflective material.

The signs shall be adequately illuminated at night.

## **Soil Conservation**

All precautions shall be taken by the Contractor to prevent the erosion of soil from any lands used or occupied by the Contractor for the purpose of the execution of the Temporary Works.

If in the opinion of the Engineer, the Contractor's operations in areas other than the permanent works caused soil erosion, the Contractor shall

## Section V. Requirements

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undertake soil conservation measures in these areas as directed by the Engineer. The details of the proposed soil conservation measures shall be submitted by the Contractor for the Engineer's approval prior to the execution of the said works.

All soil conservation measures shall be carried out at the earliest possible time, as approved by the Engineer, to ensure that the required protection is established most effectively during the progress of Works.

No separate payment will be made for the soil conservation measures and such costs shall be deemed to be included in the respective unit rates and the Contract Sum.

This specification is only APPLICABLE when the contractor is on site. Once the completion of the individual water pan is done, the soil conservation measures are taken up by the individual beneficiaries.

### **Dust Abatement**

During the performance of the work the Contractor shall carry out proper and efficient measures wherever and as often as necessary to reduce the dust nuisance resulting from his operations. Measures shall include, but not be limited, to installation of dust suppression units on his rock drilling equipment, watering down of excavated material during loading operations, and use of water tankers to sprinkle access roads, disposal areas, etc.

The Contractor shall be held liable for any damage to crops, cultivated fields and dwellings of persons in the neighbourhood of the Works resulting from his operations.

In addition, the Contractor shall provide his employees, visitors or any other individual on site with personal protective equipment against dust at all times so that they are not exposed to the dust hazard.

No separate payment will be made for the dust abatement measures and the costs thereof shall be deemed to be included in the respective unit rates and the Contract Sum

### **Noise Control**

All work shall be carried out without unreasonable noise. Compressors used on site shall be silenced either by using only full silenced models or fitted

## Section V. Requirements

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with effective exhaust silencers and properly lined and scaled acoustic covers all to the design of the manufacturers of the compressor or by the use of effective acoustic screens to enclose the noise source. Pneumatic percussion tools used on Site shall be fitted with silencers of a type recommended by the manufacturers of the tools. Compressors, silencers or other equipment shall be maintained in good and efficient working order.

Additionally, where noise from the equipment cannot be minimised using silencers and other equipment related measures, the Contractor shall at all times provide the correct Personal protective equipment for the employees, visitors and any other person on site working within the noise range.

No separate payment will be made for noise suppression measures and the costs thereof shall be included in the unit rates and the Contract Sum.

### **Sanitation**

The Contractor shall provide adequate sanitation and refuse collection and disposal facilities complying with state laws and local by-laws for all houses, offices, workshops, and the like, erected on the site, all to the satisfaction of the Engineer.

The toilet facilities provided at the site by the Contractor shall be made available, free of charge, to the employees of the Contractor and any of his subcontractors.

The Contractor shall warn his employees and sub-contractors that any employee found fouling the site shall be removed from the site immediately in accordance with the Conditions of Contract.

The Contractor shall remove all rubbish and to this end shall provide adequate number of covered garbage bins/containers placed at convenient points around the site establishments. The Contractor shall institute and maintain a regular garbage collection and disposal system. Garbage shall be disposed of by burning, by burial or by other means approved by the Engineer.

No separate payment will be made for such sanitary arrangements and all such costs will be deemed to be included in the unit rates and Contract Sum.

### **First Aid and Medical Services**

The Contractor shall provide and maintain all equipment necessary to render first aid in case of accidents, snake bites or other emergencies according to Occupational Health and Safety Act 2007 legislations regarding workplace health and safety and any other relevant legislation. This equipment shall be kept in readiness at the sites of the works, at camps and wherever the Contractor's staff may regularly live and work. The Contractor shall ensure that there are persons available to all such places with knowledge of simple first aid procedures and able to administer snake bite treatment.

In addition, the Contractor shall provide at his own cost, training to the relevant employees on ways and means of preventing snake bites.

In general, the contractor shall be guided by the following,

- Where the number of workers exceeds 25 - provide a stretcher and a vehicle that can carry a person on a stretcher
- Where the number of workers exceeds 250- provide first aid room with a qualified nurse to be on duty during all shifts.

Notwithstanding the minimum requirements prescribed above, the Contractor shall be responsible for the adequacy of all the arrangements made.

### **HIV/AIDS Awareness**

The Contractor shall implement an HIV/AIDS awareness programme for his Personnel.

### **Pollution**

During the execution of the Works, the Contractor shall ensure that no pollution of existing watercourses is allowed to take place as a result of his operations. The Contractor shall take all reasonable steps to protect the environment on and off the site and to avoid damage or nuisance to persons or to property of the republic or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation.

### **Maintenance of Irrigation Water Supplies**

## Section V. Requirements

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The Contractor shall be responsible for maintaining perennial irrigation water supplies so that the supply may be used in any part of the command area at all times unless otherwise agreed in advance with the Irrigators' Association and approved by the Engineer.

### **Restoration of Drains, Streams, Canals etc.**

Subject to any requirement of the Works whereby a permanent change is to be effected, all drains, canals, pipes, channels, water-courses or streams temporarily cut through or disturbed by the excavation of the Works are to be restored so that the water flowing in

them may continue to flow in as full and free manner as it did before the disturbance.

### **Site Clearance**

On completion of the Works, the Contractor shall clear the site and remove all temporary buildings, equipment and debris. The Contractor shall level off and grade all areas used for haul roads and all building, store and workshop areas. The whole of the site shall be left in a clean and tidy condition.

### **Units and Abbreviations**

The units of measurement used in these Contract Documents are metric.

The following abbreviations have been used for units and for other words or phrases as indicated.

Abbreviations in the Contract Documents shall have the following meanings:

mm	millimetre
m	meter
km	kilometre
sq.m,m <sup>2</sup>	square metre ha
cu m,m <sup>3</sup>	cubic metre sec,s
hr	hour
min	minute
wk	week
l	litre
gm	gram
kg	kilogram
t	tonne
No	Number

nr	Number (in bill of quantities)
dia	diameter
max	maximum
min	minimum
AD	above datum (levels in metres)
ch	chainage (distance in metres)
eo	extra over
e	exceeding
ne	not exceeding
PQ	Provisional Quantity
PS	Provisional Sum
Do	Ditto
fob	free on board
cif	cost, insurance, freight
wt	weight
%	percent
mh	manhole
ic	inspection chamber
HYS	high yield steel
PCC	precast concrete
uPVC	uplasticised polyvinylchloride
GMS	galvanised mild steel
DI	ductile iron
SV	sluice valve
ISO	International Standards Organisation
KS	Kenyan Standard
BS	British Standard
KES.	Kenya Shillings

### **EARTHWORKS**

#### **Site Clearance and Stripping**

General clearance is defined as the clearing, grubbing, removal and disposal of all vegetation, grass, debris, bushes, dense bush, trees, hedges, undergrowth, stumps, roots, shrubs plants and backfilling of holes left by the removal of stumps and roots.

The widths and length over which site clearance is to be carried out shall be instructed by the Engineer. Site clearance over the area of quarries, borrow pits, stockpiles and spoil tips shall be carried out where instructed by the Engineer. The Engineer may give instructions that specific trees, stumps or objects shall not be removed during site clearance operation.

If termite moulds are excavated, the whole of the mould shall be removed.

Where the Engineer instructs that site clearance is required, the entire area shall be cleared and all materials thus cleared shall become the property of the Employer. Unless otherwise instructed, vegetation and perishable materials shall be disposed of by burning. Where material or debris cannot be burnt, it shall be carted to spoil areas, which spoil areas shall be provided in accordance with requirement of this Specification.

If the Contractor clears the Site in advance of the main Works such that the grass and other vegetation re-grows prior to the main Works commencing at any particular location then any additional, or repeating of, site clearance required shall be at the Contractor's expense.

When instructed by the Engineer, the Contractor shall demolish wholly or in part, remove and dispose of all buildings, foundations, structures, fences and any other obstructions which have not been designed to remain.

The Contractor shall carefully take down such buildings, structures; fences etc. and the components shall be dismantled, cleaned and stacked in separate heaps. All materials which, in the opinion of the Engineer, are not fit for re-use shall be removed from the site to spoil areas provided in accordance with the requirements of this Specification. All materials, which are re-usable, shall remain the property of the Employer and shall be preserved and protected by the Contractor until removed by the Employer or until the expiry of the Period of Maintenance.

All existing paths, fences, walls, hedges, trees, shrubs, lawn and other features which the Engineer instructs not to be removed or otherwise dealt with, shall be protected from the damage, and any damage which occurs due to the Contractor's failure to take adequate precautions shall be repaired at the Contractor's expense.

Site clearance shall be measured in square metre, calculated as the plan area instructed by the Engineer to be cleared. The rate for the site clearance shall include for the cost of complying with the requirements of Clauses 2.1, 2.13 and 2.14.

Stripping work shall basically consist of removal of top soil, grasses, vegetative material to a depth of 150 mm below ground level and its disposal to a stockpile. Stripping shall include for removal, stockpiling and for reinstatement or spreading as directed by the Engineer. Measurement and payment of this shall be in square metres, calculated as the plan area instructed by the Engineer.

### **Surface Levels**

After the area of any section of the Works has been cleared and after trees have been felled, stumps removed and termite moulds excavated to the satisfaction of the Engineer, but before any other work is commenced, surface levels of the ground shall be taken. The levels shall be taken at spacings agreed with the Engineer. Levels shall similarly be taken on the surface of the ground after the removal of unsuitable overburden prior to placing fill and at the interface between natural ground, rock or artificial hard material layers. The levels shall be agreed with the Engineer. The Contractor shall prepare plans and sections which shall, when finally and mutually agreed, be signed by the Engineer and Contractor as truly representing the configurations of the areas in question at the commencement of excavation or fill construction.

### **Definition of Earthwork Materials**

The following definitions of earthworks materials shall apply to this and other Clauses of the Specification in which reference is made to the defined materials:

- (a) "Top soil" shall mean the top layer of soil that can support vegetation
- (b) "Suitable material" shall comprise all material which arises from excavations within the Site and which is approved by the Engineer as acceptable for use in the Works
- (c) "Unsuitable material" shall mean material other than suitable material and shall comprise:
  - Material from swamps, marshes and bogs
  - Logs, stumps and perishable materials

- Material susceptible to spontaneous combustion
- Clay of liquid limit exceeding ninety (90) and/or plasticity index exceeding sixty five (65)

(d) "Rock" or "hard material"

Rock or hard material shall be material which cannot be ripped to an average depth of greater than 300mm by a track type crawler tractor complying with the following:

- In good order complete with all equipment and accessories as supplied;
- Rated 300 BHP flywheel power or over;
- With an operating weight of not less than 37.2 tonnes;  
Equipped with a hydraulically operated single tine ripper compatible with the tractor used; and
- Operated by a qualified operator in accordance with the manufacturer's recommendations and to the satisfaction of the Engineer.

Where it is impractical to prove hard material by the above method then the quantity of hard material, if any, shall be determined by the Engineer.

Where excavation contains individual boulders of hard material greater than 0.3 m<sup>3</sup> each in volume then such boulders shall be classified as hard material.

(e) "Soft material" material shall mean all material other than that defined as "rock" or "hard material".

### **Removal of Unsuitable Material**

Where directed by the Engineer the Contractor shall remove unsuitable material to the depth as ordered or agreed with the Engineer and shall dispose of it in approved spoil tips.

### **Excavation General**

Excavation shall be carried out with the allowances for working space given in the Method of Measurement to the Bill of Quantities, unless otherwise shown as lines, levels and profiles on the Drawings or to such other lines,

levels and profiles as the Engineer may direct or approve in writing. The work shall be carried out by the Contractor in such a way as to avoid disturbance to the surrounding ground. Particular care shall be taken to maintain stability when excavating in close proximity to existing works.

The work shall be carried out in a careful manner to ensure that the exposed surfaces are as sound as the nature of the material permits and that no point shall protrude inside the lines shown on the Drawings except as otherwise specified or agreed by the Engineer. In soft excavation, which is to remain open permanently, exposed faces shall be formed accurately to the required slopes and profiles. Excavations in rock where the faces shall remain open permanently shall be trimmed so that no point protrudes within the required profile.

The Contractor shall examine all excavated faces regularly and shall remove all insecure material or materials resulting from any falls. Where instructed in writing by the Engineer, the Contractor shall wash down exposed surfaces of excavated rock for inspection.

The Contractor shall dispose of all material arising from excavations. If it is suitable and required for the Permanent Works it shall be placed directly in such Works or set aside for use as and when required in suitable approved dumps, otherwise it shall be removed to tips provided by the Contractor unless otherwise provided or directed by the Engineer.

The Contractor shall be responsible for keeping all excavations free from water from whatever cause arising and shall provide such pumping capacity and other measures as may be necessary for this purpose. The Contractor shall make good any damage that may result from his failure to keep the excavations free from water.

All excavation shall be carried out with care and the method and plant to be used in execution thereof shall be to the satisfaction of the Engineer.

The Contractor shall be responsible for the safety and security of all excavations at all times during the execution of the contract and where necessary shall provide timbering, shoring or other measures required by the Engineer to prevent movement or loss of ground outside the boundaries, settlement of or damage to property, or injury to persons. The Contractor shall make good any damage to structures, services or other

## Section V. Requirements

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properties caused by such movement, loss of ground and settlement. The Contractor shall also take precautions to route his plant in such a manner as to minimise the likelihood of slips occurring due to vibration or surcharge from the working or movement of heavy machinery.

The Contractor will be permitted, subject to the approval of the Engineer, to adjust side slopes of excavations in soft materials which are to remain open temporarily in preference to shoring or strutting. However no payment shall be made for extra excavation volume as a result of these measures.

The Contractor shall notify the Engineer without delay of any permeable strata, fissures or unusual ground encountered during excavation.

### **Blasting**

The Contractor shall not be permitted to use explosives for rock excavation without the approval of the Engineer. The Contractor shall only employ suitably qualified and experienced personnel to manage and supervise blasting operations. For each blasting operation, the Contractor shall submit to the Engineer for approval a statement detailing the type of explosives to be used, method of transport, storage, blasting procedures, safety precautions to be observed and the names and experience of the personnel who will supervise the work. Notwithstanding the Engineer's approval, the Contractor will be responsible for the blasting operations and shall accept full and absolute liability for any claims resulting either directly or indirectly from the use of explosives on the Site.

The blasting operations shall comply in every respect with the regulations and laws covering the use of explosives and the Contractor shall be responsible for obtaining all necessary permits.

### **Excavation beyond Line or Level**

If from any cause whatsoever excavations are carried out beyond their true line and level other than on the instructions of the Engineer, the Contractor shall make good to the required line and level with the appropriate grade of filling to be contained in the true excavation, or with concrete or other approved material in such a manner as the Engineer may direct. This shall be at the Contractor's expense.

## **Approval of Excavation**

When excavations have been taken out accurately to the profiles or dimensions required for the work the Contractor shall inform the Engineer who shall carry out an inspection of the excavation. If, after his inspection the Engineer requires additional excavation to be carried out, the Contractor shall do so to such new profiles or dimensions as the Engineer may direct.

## **Excavation for Structures**

Open excavation to form a foundation for a structure shall be carried out to the lines necessary to permit the proper construction of the structure to the approval of the Engineer.

Where a structure is to be founded on soft ground, the excavation shall be taken down until the required formation is exposed and prepared to the approval of the Engineer. Where concrete has to be placed on a soft foundation, the Engineer may direct that a blinding layer of lean concrete be placed beneath the structural concrete immediately after completion and approval of the excavation, or require the Contractor to remove the last 100 mm of excavation immediately prior to placing the concrete. If foundation conditions are very soft the Engineer may instruct that additional material be excavated and replaced with compacted gravel or hardcore.

Where a structure is required to be founded on rock but is not required to penetrate into it, all soft overburden shall be removed and the surface of the rock cleared of any loose material by barring and wedging. Where the foundation is required to penetrate into the rock, excavation of the rock may be carried out by blasting but in such a manner as to prevent the shattering of the rock which is to remain. The Engineer may direct that the last 300 mm of rock be left and be removed by barring and wedging or by the use of approved pneumatic tools so that the exposed surface is sound.

The Contractor shall report to the Engineer whenever excavations are ready to receive concrete. No concrete shall be placed in the foundations until the Contractor has obtained the Engineer's agreement that a secure foundation has been reached and that the excavation has been carried out to the lines and levels required.

## **Excavation for Fill Foundation**

Foundations for embankments shall be excavated to the depths or to the soil or rock grade indicated on the Drawings or described in the Specification. The suitability of each part of the foundation for placing fill thereon shall be determined by the Engineer. No fill shall be placed before acceptance of the foundation by the Engineer and recording of the geology.

Where specified in the Drawings or Specification or directed by the Engineer, seams and other defects below the general level of the foundations shall be excavated and filled or covered with materials including mortar and concrete to the satisfaction of the Engineer before fill is placed thereon.

Where embankments are to be constructed on sloping ground, and where shown on the Drawings, benches shall be excavated in the foundations to the dimensions shown on the Drawings.

Except where specifically permitted by the Engineer all foundations for fill shall be kept free of water when placing fill thereon.

Earth foundations shall have the top 150 mm sufficiently moistened and, if necessary, harrowed or scarified and compacted to at least ninety five per cent (95%) of the maximum dry density as determined by the AASHTO T99. Material too wet to be so compacted shall, as directed by the Engineer, be allowed to dry, harrowed or scarified to reduce the moisture content to the required amount and then be re-compacted.

## **Trench Excavation**

Trench excavation shall be performed by the use of hand tools and approved mechanical equipment, in such manner as to minimise disturbance of the sides and bottom of the excavation.

Trenches for pipes shall be excavated to a sufficient depth to enable the pipe and the specified joint, bedding, hunching and surround to be accommodated. Unless otherwise stated, the width of the trench shall be equal to the nominal diameter of the pipe plus 600 mm.

The Contractor shall fill any over excavation beneath the pipe or bedding at his own cost with well rammed selected general excavation material as per requirement of this Specification. The Contractor shall dispose of surplus excavated material not required for backfill to spoil tips.

The sides of trenches shall be adequately supported at all times.

Alternatively where the Contractor has to excavate the trenches in open cut the Contractor shall ensure that the side slopes of the excavation are sufficient for stability.

Where rock or boulders are present in the sides or base of a trench in which a pipe is to be installed, the trench shall be trimmed so that when the pipeline is laid, no projection of rock comes within 200 mm of the outside of the pipe at any point. The over excavated portion shall be backfilled as set out in this Specification with approved granular material at the Contractor's expense.

The Contractor shall be entirely responsible for the sufficiency of all temporary supports and side slopes to the excavations. The excavation shall be carried out in such a way as to maintain the stability of all roads and other adjacent structures or works.

### **Channel Excavation**

The excavation of all channels shall be executed in such a manner as to ensure that the stability of side slopes is not endangered. Should slips or undercutting occur for reasons attributable to the Contractor's negligence or method of working, the Engineer will give instructions for remedial works to be carried out by the Contractor at the expense of the Contractor.

Where channels are to be reshaped, cleared and trimmed, the width, depth, side slopes and centre line radius shall be as shown on the Drawings. The Contractor shall clear all weeds and growth from existing channels and grade the beds to required levels. The area of waterway shown is the minimum required and sides of channels shall be trimmed to the required slope so as to provide widths not less than those shown on the Drawings.

Any channels, streams, drains or pipes taking water to or from cultivated land shall be diverted so as to maintain their flow before being moved or

broken into unless express permission to the contrary is given by the Engineer. All diversions and their subsequent reinstatement are to be carried out to the satisfaction of the Engineer. The Contractor shall be deemed to have included the cost of dealing with this in his rates.

Side banks of channels shall be trimmed to a neat appearance and even surface.

In the construction of channels and embankments a local balance of cut and fill shall be maintained as far as possible unless the cut is unsuitable material or is specified in the drawings that the fill should be imported. A deficiency of fill material shall be made up by bed borrow or gleaning.

Surplus material, if suitable and approved by the Engineer may be used for an increased width of embankment otherwise it may be spread at the toe of the embankment or placed on spoil tips as directed by the Engineer.

Where required the Contractor shall control the rates of filling and draw-down of water in channels so as not to endanger the stability of earthworks.

### **Disposal of Excavated Material**

Material obtained from excavations which are suitable for forming embankments or other fill areas shall be placed directly in the Works or set aside for use as and when required in suitable approved dumps. Any such suitable material which may be surplus to the total requirements of the Works shall be taken to spoil in tips provided by the Contractor, unless otherwise provided or permitted by the Engineer.

If the Contractor is permitted to remove suitable material from the site to suit his operational procedure or to take such material for purposes other than forming embankments or other fill areas, he shall make good any consequent deficit of filling arising there from, unless otherwise agreed by the Engineer.

All material not suitable for embankments or other filling shall, unless otherwise directed by the Engineer, be taken to separate spoil tips provided by the Contractor.

The cost of disposal of surplus or unsuitable materials shall be deemed to be included

in the respective unit rates for the excavation work and the Contract Sum.

### **Spoil Tips**

The Contractor shall be responsible for the provision and sufficiency of tips for the permanent disposal of spoil and shall select their location within the general areas as designated or approved by the Engineer. The Contractor shall submit his proposals for the locations and detailed treatment of tips to the Engineer for approval, which will in no way relieve the Contractor of his responsibilities and obligations under the Contract, whether or not locations are shown on the Drawings or otherwise designated.

No spoil shall be permanently deposited elsewhere than on approved spoil tips unless approved by the Engineer. Spoil tips shall be built up and compacted and trimmed and regulated to levels and profiles approved by the Engineer. Where directed by the Engineer, upper surfaces and slopes of the tips shall be soiled to specified thickness.

### **Backfilling of Structural Excavations**

Backfilling of structural excavations shall be carried out with excavated material selected or approved by the Engineer. The material shall be placed in layers not exceeding 150 mm compacted thickness or such other thickness as the Engineer may approve or direct and shall be compacted as specified in Clause 2.16.

When material is filled up to or over any structure, the filling shall be brought up equally on each side or as otherwise agreed by the Engineer so that no unequal pressures likely to cause damage to the structure are applied.

### **Filling under raised foundations**

The material to be used as filling under raised foundations shall consist of suitable material obtained from adjacent excavations or approved borrow sources, and shall be placed in layers not exceeding 150 mm compacted thickness. The material shall be compacted in accordance with Clause 2.16.

### **Slopes and Batters**

Where a slope is given in the Specification or on the Drawings as a ratio of

vertical and horizontal components, it shall be understood that the first component is vertical in all cases e.g. a "slope of 1 in 2" will mean one vertical in two horizontal and a "batter of 4 to 1" will mean four vertical to one horizontal. This meaning will be attributed to all other terms such as "inclination" and "gradient".

### **Trial Pits**

The Contractor shall excavate, maintain and afterwards refill any trial pits ordered by the Engineer. The sides of the pits shall, where deemed necessary by the Engineer for safety purposes, be supported by sheeting or boarding with adequate framing. A ladder shall be provided for inspection purposes.

## **ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN**

### **General**

#### **Environmental Responsibility**

The Contractor will be required to include in his site staff an Environmental Specialist in his team to co-ordinate all aspects of the environment during project implementation. This will include following the construction to monitor, review and verify the implementation of the project's Environmental and Social Management Plan (ESMP).

During construction, the Environmental Specialist will be responsible but not limited to the following tasks:

- Update environmental aspects (not covered in the ESIA / ESMP);
- Report to the Engineer on environmental issues that were included in the ESMP and the emerging ones during construction;
- Audit environmental and safety aspects at the work sites;
- Participate in the definition of the no working-areas and the location of campsite, borrow pits, quarries and other areas;
- Recommend solutions for specific environmental problems;
- Liaise with Community Liaison Groups with regard to compliance of the social clauses of the Contract, in terms of local labour force and

HIV/AIDS campaign;

- Oversee strategies for sensitising Contractor' staff on health and safety problems;
- Attend consultations held at key stages of the project with the community and interested parties;
- Liaise with the respective Environmental Authorities on the level of compliance with the ESMP achieved by the Contractor on a regular basis for the duration of the contract;
- Control and supervise the implementation of the ESMP;
- Prepare quarterly environmental and social progress or "audits" reports on the status of implementation of measures and management of work sites.

### **Updated Environmental Management Plan**

An updated Environmental Management Plan will be required to be prepared to identify emerging and sequence environmental activities that are needed in order to complete a required construction process.

The Environmental Management Plan would identify reference documentation, the approval required to complete that activity and the verification documentation to be produced as evidence of satisfactory completion. The Environmental Management Plan would also identify where "hold points" would be required. These are where continuation of subsequent activity is prohibited unless a former activity has been signed-off. The ESMP would be broken down into various activities as listed in ESIA Report will be undertaken.

### **Method Statements**

Method statements would be completed on behalf of the Main Contractor or Sub Contractor by the Environmental Specialist, in consultation with on-site Engineering staff. The method statements would include a review of the environmental risks and commitments, as identified in the ESMP and risk assessment, so that appropriate control measures are developed and included within the construction process.

Method statements would be reviewed by the Consultants Environmental Manager. Where necessary, all method statements would be submitted to the enforcement agencies (EMA and District Assembly.) as appropriate. Method statements would contain as a minimum:

- Location of the activity and access/egress arrangements.
- Work to be undertaken and methods of construction.
- Plant and materials to be used.
- Labour and supervision requirements.
- Health, safety and environmental considerations.
- Any permit or consent requirements.

### **Control of Construction Processes**

#### **Training, Awareness and Competence**

The raising of environmental awareness is viewed as a crucial element in the appreciation and implementation of the Construction Environmental Management Plan (CEMP). As a consequence, all of the Contractor' staff will undergo environmental awareness training, initially by way of the pre-start induction process. A project specific training plan that identifies the competency requirements for all personnel allocated with environmental responsibilities will be produced and contained within the CEMP. Training for all personnel identified in the training plan will be completed before commencement of the associated construction activities. Line managers and supervisors would ensure that all personnel engaged in activities that may have an impact on the environment are competent to carry out their duties or, where necessary, arrange for suitable training to be undertaken.

#### **Supervision of Construction Activities**

All construction and installation activities including those carried out by subcontractors and suppliers would be supervised, or regularly checked through the completion of site inspections by the Contractors Environmental Specialist, to ensure that requirements identified in risk assessments or method statements have been implemented. The frequency and extent of this supervision will vary according to the degree of competence displayed by the workforce and the level of risk to the

environment.

### **Inspection of Other Operational Impacts**

Appointed environmental representatives would carry out weekly inspections of their respective construction areas, to verify that housekeeping or supporting controls are being implemented effectively. These inspections would utilise the site environmental standards as the minimum standards that should be achieved, with necessary actions being recorded and raised at weekly progress meetings. Subsequent inspections would commence with a review of all outstanding actions from previous reports to verify that they have been completed.

### **Inspections by the Environmental Team**

Environmental deliverables required by the Construction Environmental Management Plan (CEMP) will be subject to regular independent inspections by either the Environmental Manager or the relevant environmental specialists. These inspections will be used to confirm that:

- Construction works are progressing in accordance with the agreed method statements';
- Agreed protection or mitigation measures are in place, prior to or during the implementation of construction activities;
- Construction works have been completed in accordance with the design and;
- Commitments made during the statutory process.

### **Environmental Inspection and Reporting**

The Contractors Environmental Manager would carry out an assessment of the Project's environmental performance, based upon the reports from the environmental management representatives during the period, reports from the environmental specialists and from his own site inspections. This would be carried out at a frequency at no greater than monthly intervals but could be held more regularly depending on the nature of the construction activity. An assessment of the performance over the month would be made and quantified. A monthly report detailing performance for the period would be provided to the Engineer and would include a summary of

environmental inspections completed, audits undertaken, complaints and incidents.

### **Environmental Monitoring**

Monitoring of noise, vibration, dust and water quality would be carried out in accordance with the specialist environmental procedures and environmental commitments made.

### **Control of non-conformance**

Non-conforming products or processes would initiate a Non-Conformance Report, which would identify the nature of the problem, the proposed corrective action, action taken to prevent recurrence of the problem and verification that the agreed actions have been carried out.

### **Communication and Co-ordination**

Internal project communications would be via two processes:

- Weekly team meetings;
- A monthly Project Environmental Review;

#### **Weekly team meetings**

Weekly meetings chaired by the Client's Environmental Manager will be held by each of the construction teams to review performance and co-ordinate short- term planning of forthcoming activities. Environmental management representatives would use these meetings to report on the findings of their inspections together with any systematic or recurring issues. Actions from these meetings would be recorded via minutes and reviewed by the Contract Manager.

#### **Monthly Project Environmental Review**

Environmental issues will be primarily discussed at a monthly Project Environmental Review, chaired by the Contract Manager and attended by the Contractors Environmental Manager, the Clients Environmental Manager, relevant sub-contractor's environmental representatives and, when necessary, environment specialists and representatives from statutory consultees. The Project Environmental Review will:

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- Consider past performance from inspections, audit reports and monitoring data.
- Plan actions required to mitigate forthcoming risks.
- Disseminate best practice.

### **Environmental due diligence during construction**

During the construction phase, environmental due diligence will be incorporated into the Project implementation mainly to:

- Control the residual risk of accidental environmental damage;
- Prevent the negative environmental impacts during construction.

The contractor will be required to include environmental considerations in the monthly progress reports and indicate progress in the implementation of mitigation measures as outlined in the ESMP.

The Construction risks to be monitored will include, but not be limited to the following issues:

- Handling of hazardous materials as part of construction activities;
- Movement of machinery;
- Management of borrow areas;
- Sedimentation of watercourses
- Collection and disposal of wastes;
- Management of pollution incidents.

Tables 9.1, gives a summary of the Environmental and Social Management Plans during Construction phase of the project.

Table 9.1 Environmental and Social Management Plan

Project Activity/ environmental concern	Possible Impact	Mitigation Measures	Institutional Responsibility	Time Frame	Estimated Costs (KES)
<b>Construction Phase</b>					

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Project Activity/ environmental concern	Possible Impacts	Mitigation Measures	Institutional Responsibility	Time Frame	Estimated Costs (KES)
Land Take	Permanent and temporary loss of land	<ul style="list-style-type: none"> <li>Compensation of land lost at Full Replacement Cost;</li> <li>Transition allowance for land tenants of three month yield costs;</li> <li>Provision with an alternative land of the same or</li> </ul>	N.I.A	Before construction	RAP Report
	Economically displaced people	<ul style="list-style-type: none"> <li>Include valuation report on the extent of economic loss by PAPs in the full RAP for compensation.</li> <li>Measures to reduce instances of loss of income or livelihoods during the transition period to the new system.</li> <li>Where possible,</li> </ul>	N.I.A	Before construction	

## Section V. Requirements

Project Activity/ environmental concern	Possible Impact	Mitigation Measures	Institutional Responsibility	Time Frame	Estimated Costs (KES)
Project Activity/ environmental concern	Possible Impact	Mitigation Measures	Institutional Responsibility	Time Frame	Estimated Costs (KES)
		mature for harvesting during canal construction.			
		Full or partial loss of structures	<ul style="list-style-type: none"> <li>• Cash compensation of the affected structure at Full Replacement cost;</li> <li>• Allowance to repair the remaining part of the structure for partial</li> </ul>	N.I.A	Before construction
Flooding	Destruction of crops and homes	<ul style="list-style-type: none"> <li>• Strive to construct most of the canals to completion during the dry season.</li> <li>• Regularise checks and inspection of the canals to</li> </ul>	N.I.A	During Construction	No additional costs to BOQ

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Project Activity/ environmental concern	Possible Impacts	Mitigation Measures	Institutional Responsibility	Time Frame	Estimated Costs (KES)
Vegetation Loss	Reduced biodiversity and loss of indigenous trees and shrubs	<ul style="list-style-type: none"> <li>The clearing of vegetation and trees, especially indigenous trees, should be strictly</li> </ul>	NIA	During Construction	No additional costs to BOQ
Project Activity/ environmental concern	Possible Impacts	Mitigation Measures	Institutional Responsibility	Time Frame	Estimated Costs (KES)
		<p>absolutely necessary.</p> <ul style="list-style-type: none"> <li>Disturbed areas adjacent to the canals should be re-vegetated with locally occurring grasses, shrubs and trees</li> </ul>			

## CONSTRUCTION TOLERANCES

### General

The following are the tolerances within which the works are to be executed or as directed by the Engineer:

### Earthworks

Top level of Embankments after compaction +100/ -0 mm

Sides of Embankments over a 10 m length +100/ -0 mm

Channel or Excavation cutting +20/ -20 mm

## Section V. Requirements

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Channel Water Way Area - 0  
Horizontal Alignment of Channels: Maximum 300 mm Over 20 m  
length100 mm  
Formation Level for Structures +0/ -ve filled with concrete Formation  
Level for Gabions +0/ -100 mm

## Section V. Requirements

**Specification**

**PARTICULAR SPECIFICATIONS**

**A. PRICING ITEMS OF PRELIMINARIES**

Prices SHALL BE INSERTED against items of "preliminaries" in the tenderer's priced Bills of Quantities. The contractor is advised to read and understand all preliminary items.

**B. DESCRIPTION OF THE WORKS**

The contract works include:

- ◆ **Construction of Dam**
- ◆ **Construction of Sump**
- ◆ **Installation of Centrifugal Pump**
- ◆ **Supply and Installation of Solar Panels**
- ◆ **Construction of Steel Water Tower**
- ◆ **Supply and Installation of a 50,000 Litres Steel Tank**
- ◆ **Installation of Pipeline (Conveyance and Distribution) and Plumbing Works**

**Note:** All the above works should be as per the attached drawings and Bills of quantities.

**LOCATION OF THE SITE**

The site is situated in **Jangwani Water Pan in Borabu Constituency, Nyamira County**

**C. FLOOR AREAS**

To be done as per description in bill of quantities and technical drawings

**D. MEASUREMENTS**

In the event of any discrepancies arising between the Bills of Quantities and the actual works, the site measurements shall generally take precedence. However, such discrepancies between any contract documents shall immediately be referred to the PROJECT MANAGER in accordance with the Conditions of Contract. The discrepancies shall then be treated as a variation and be dealt with in accordance with the said Conditions

<b>E.</b>	<b>LOCATION OF SITE</b> IS AS INDICATED ELSEWHERE
<b>F.</b>	<b>SIGNING OF THE TENDER DOCUMENTS</b>
	The authorized person shall append his / her signature and / or company 's rubberstamp on each and every page of tender document in which entries have been made
<b>G.</b>	<b>DEMOLITIONS AND ALTERATIONS</b>
	The Contractor is to allow for all temporary protection required during the works including ordinary and special dust screens, hoardings, barriers, warning signs, etc as directed by the Project Manager and as necessary for the adequate propping and protection of existing property, finishes, workmen employed on the site, employer's agents and the public. Any damage or loss incurred due to the insufficiency of such protection must be made good by the Contractor. All protective devices are to be removed on completion of the works and any necessary making good consequent upon this is to be executed to the satisfaction of the Project Manager
	The works shall be propped, strutted and supported as necessary before any alteration or demolition work commences. Prices shall include for all cleaning and preparatory work to structure and finishes and for making good to all finishes on completion whether or not specifically described.
	Unless described as set aside for re-use all arising debris and surplus materials shall be carefully removed from building and cart away from site.
	The Contractor shall be entirely responsible for any breakage or damage which may occur to materials required for re-use during their removal unless it is certified by the Project Manager that such damage or breakage was inevitable as a result of the condition of the item concerned
<b>H.</b>	<b>CLEARING AWAY</b>
	The Contractor shall remove all temporary works, rubbish, debris and surplus materials from the site as they accumulate and upon completion of the works, remove and clear away all plant, equipment, rubbish, unused materials and stains and leave in a clean and tidy state to the reasonable satisfaction of the

	<p>Project Manager.</p> <p>The whole of the works shall be delivered up clean, complete and in perfect condition in every respect to the satisfaction of the Project Manager</p>
<b>I.</b>	<b>CLAIMS</b> <p>It shall be a condition of this contract that upon it becoming reasonably apparent to the Contractor that he has incurred losses and / or expenses due to any of the contract conditions, or by any other reason whatsoever, he shall present such a claim or intent to claim notice to the PROJECT MANAGER within the contract period. No claim shall be entertained upon the expiry of the said contact period.</p>
<b>J.</b>	<b>PAYMENTS</b> <p>The tenderer's attention is drawn to the General Conditions of Contract and the Particular Conditions of Contract</p>
<b>K.</b>	<b>PREVENTION OF ACCIDENT, DAMAGE OR LOSS</b> <p>The Contractor is notified that these works are to be carried out on a restricted site where the client is going on with other normal activities. The Contractor is thus instructed to take reasonable care in the execution of the works as to prevent accidents, damage or loss and disruption of activities being carried out by the Client. The Contractor shall allow in his rates any expense he deemed necessary by taking such care within the site</p>
<b>L.</b>	<b>WORKING CONDITIONS</b> <p>The Contractor shall allow in his rates for any interference that he may encounter in the course of the works for the Client may in some cases ask the Contractor not to proceed with the works until some activities within the site are completed, as the facility will be operating as usual during the course of the contract.</p>
<b>M.</b>	<b>SIGNBOARD</b> <p>Allow for providing, erecting, maintaining throughout the course of the Contract and afterwards clearing away a signboard as designed, specified and approved by the Project Manager.</p>

<b>N. LABOUR CAMPS</b>
The Contractor shall be allowed to house labour on site
<b>O. MATERIALS FROM DEMOLITIONS</b>
Any materials arising from demolitions and not re-used shall become the property of the Client
<b>P. PRICING RATES</b>
The tenderer shall include for all costs in executing the whole of the works, including transport, replacing damaged items, fixing, all to comply with the said Conditions of Contract.
<b>Q. SECURITY</b>
The Contractor shall allow for providing adequate security for the works and the workers in the course of execution of this contract. No claim will be entertained from the Contractor for not maintaining adequate security for both the works and workers.
<b>R. URGENCY OF THE WORKS</b>
The Contractor is notified that these " <b>works are urgent</b> " and should be completed within the period stated in these Particular Preliminaries
The Contractor shall allow in his rates for any costs he/ she deems that he/she may incur by having to complete these works within the stipulated contract period.
<b>S. PAYMENT FOR MATERIALS ON SITE</b>
All materials for incorporation in the works must be stored on site before payment is effected, unless specifically exempted by the Project Manager. This is to include materials of the Contractor, nominated sub-Contractors and nominated suppliers.
<b>T. EXISTING SERVICES</b>
Prior to the commencement of any work, the Contractor is to ascertain from the relevant authority the exact position, depth and level of all existing services in the area and he/she shall make whatever provisions may be required by the

	authorities concerned for the support, maintenance and protection of such services.
<b>U.</b>	<b>CONTRACT COMPLETION PERIOD</b>  The contract completion period in accordance with clause 31 of the Conditions of Contract must be adhered to.  The ' <b>PROJECT MANAGER</b> ' shall strictly monitor the Contractors progress in relation to the progress chart and should it be found necessary the ' <b>PROJECT MANAGER</b> ' shall inform the Contractor in writing that his actual performance on site is not satisfactory. In all such cases the Contractor shall accelerate his rate of performance production and progress by all means such as additional labour, plant, etc. and working overtime all at his cost.
<b>V.</b>	<b>PERFORMANCE BOND</b>  A guarantee of 10 % of the contract sum will be required in accordance. No payment on account for the works executed will be made to the contractor until he has submitted the Performance guarantee to the Project Manager duly signed, sealed and stamped from an approved Bank.
<b>W.</b>	<b>DELIVERY OF TENDER</b>  Tenders and all documents in connection therewith, as specified above must be delivered in the addressed envelope which should be properly sealed and deposited at the offices as specified in the letter accompanying these documents or as indicated in the advertisement.  Tenders will be opened at the time specified in the letter accompanying these Tender Documents or as indicated in the advertisement. Tenders delivered/received later than the above time will not be opened.
<b>X.</b>	<b>VALUE ADDED TAX</b>  The Contractor's attention is drawn to the Legal Notice in the Finance Act part 3 Section 21(b) operative from 1st September, 1993 which requires payment of VAT on all contracts. The Contractor should therefore include allowance in his rates and prices for prices for VAT and any other Government taxes currently in force

ITEM	DESCRIPTION																						
<b>A.</b>	<p><b>PRICING ITEMS OF PRELIMINARIES AND PREAMBLES</b></p> <p>Prices will be inserted against items of Preliminaries in the Contractor's priced Bills of Quantities and Specification.</p> <p>The Contractor shall be deemed to have included in his prices or rates for the various items in the Bills of Quantities or Specification for all costs involved in complying with all the requirements for the proper execution of the whole of the works in the Contract.</p>																						
<b>B.</b>	<p><b>ABBREVIATIONS</b></p> <p>Throughout these Bills, units of measurement and terms are abbreviated and shall be all the requirements for the proper execution of the whole of the works in the Contract.</p> <table> <tbody> <tr> <td>Ha</td><td>Shall mean hectares</td></tr> <tr> <td>C.M.</td><td>Shall mean cubic metre</td></tr> <tr> <td>S.M.</td><td>Shall mean square metre</td></tr> <tr> <td>L.M.</td><td>Shall mean linear metre</td></tr> <tr> <td>MM</td><td>Shall mean Millimetre</td></tr> <tr> <td>Kg.</td><td>Shall mean Kilogramme</td></tr> <tr> <td>No.</td><td>Shall mean Number</td></tr> <tr> <td>Prs.</td><td>Shall mean Pairs</td></tr> <tr> <td>B.S.</td><td>Shall mean the British Standard Specification Published by the British Standards Institution, 2 Park Street, London W.I., England.</td></tr> <tr> <td>Ditto</td><td>Shall mean the whole of the preceding description except as qualified in the description in which it occurs.</td></tr> <tr> <td>m.s.</td><td>Shall mean measured separately.</td></tr> </tbody> </table>	Ha	Shall mean hectares	C.M.	Shall mean cubic metre	S.M.	Shall mean square metre	L.M.	Shall mean linear metre	MM	Shall mean Millimetre	Kg.	Shall mean Kilogramme	No.	Shall mean Number	Prs.	Shall mean Pairs	B.S.	Shall mean the British Standard Specification Published by the British Standards Institution, 2 Park Street, London W.I., England.	Ditto	Shall mean the whole of the preceding description except as qualified in the description in which it occurs.	m.s.	Shall mean measured separately.
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<b>C.</b>	<p><b>EXCEPTION TO THE STANDARD METHOD OF MEASUREMENT</b></p> <p><i>Attendance</i></p>																						

## Section V. Requirements

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	<p>Clause B19(a) of the Standard Method of Measurement is deleted and the following clause is substituted: -</p> <p>Attendance on nominated Sub-Contractors shall be given as an item in each case shall be deemed to include: allowing use of standing scaffolding, mess rooms, sanitary accommodation and welfare facilities; provision of special scaffolding where necessary; providing space for office accommodation and for storage of plant and materials; providing light and water for their work: clearing away rubbish; unloading checking and hoisting: providing electric power and removing and replacing duct covers, pipe casings and the like necessary for the execution and testing of Sub- Contractors' work and being responsible for the accuracy of the same.</p> <p><i>Fix Only:</i> -</p> <p>"Fix Only" shall mean take delivery at nearest railway station (Unless otherwise stated), pay all demurrage charges, load and transport to site where necessary, unload, store, unpack, assemble as necessary, distribute to position, hoist and fix only.</p>
<b>D.</b>	<b>EMPLOYER</b>  As defined in the conditions of contract
<b>E.</b>	<b>PROJECT MANAGER</b>  The term "P.M." wherever used in these Bills of Quantities shall be deemed to imply the Project Manager as defined in of the Conditions of Contract or such person or persons as may be duly authorized to represent him on behalf of the Government.
<b>F.</b>	<b>ARCHITECT</b>  The term "Architect" shall be deemed to mean "The P.M." as defined above
<b>G.</b>	<b>QUANTITY SURVEYOR</b>  The term "Quantity Surveyor" shall be deemed to mean "The P.M." as defined above

<b>H.</b>	<b>ELECTRICAL ENGINEER</b>  The term "Electrical Engineer" shall be deemed to mean "The P.M." as defined above
<b>I.</b>	<b>MECHANICAL ENGINEER</b>  The term "Mechanical Engineer" shall be deemed to mean "The P.M." as defined
<b>J.</b>	<b>STRUCTURAL ENGINEER</b>  The term "Structural Engineer" shall be deemed to mean "The P.M." as defined above.  Particulars of insertions to be made in the Appendix to the Contract Agreement will be found in the Particular Preliminaries part of these Bills of Quantities
<b>K.</b>	<b>BOND.</b>  The Contractor shall find and submit on the Form of Tender as given in the instructions to bid and SPN
<b>L.</b>	<b>PLANT, TOOLS AND VEHICLES</b>  Allow for providing all scaffolding, plant, tools and vehicles required for the works except in so far as may be stated otherwise herein and except for such items specifically and only required for the use of nominated Sub-Contractors as described herein. No timber used for scaffolding, formwork or temporary works of any kind shall be used afterwards in the permanent work.
<b>M.</b>	<b>TRANSPORT.</b>  Allow for transport of workmen, materials, etc., to and from the site at such hours and by such routes as may be permitted by the competent authorities.
<b>N.</b>	<b>MATERIALS AND WORKMANSHIP</b>  All materials and workmanship used in the execution of the work shall be of the best quality and description unless otherwise stated. The Contractor shall order all materials to be obtained from overseas immediately after the Contract

	<p>is signed and shall also ensure they are onsite when required for use in the works. The Bills of Quantities shall not be used for the purpose of ordering materials</p>
<b>O.</b>	<p><b>SIGN FOR MATERIALS SUPPLIED.</b></p> <p>The Contractor will be required to sign a receipt for all articles and materials supplied by the <b>PROJECT MANAGER</b> at the time of taking delivery thereof, as having received them in good order and condition, and will thereafter be responsible for any loss or damage and for replacements of any such loss or damage with articles and/or materials which will be supplied by the <b>PROJECT MANAGER</b> at the current market prices including Customs Duty and V.A.T., all at the Contractor's own cost and expense, to the satisfaction of the <b>PROJECT MANAGER</b></p>
<b>P.</b>	<p><b>STORAGE OF MATERIALS</b></p> <p>The Contractor shall provide at his own risk and cost where directed on the site weather proof lock-up sheds and make good damaged or disturbed surfaces upon completion to the satisfaction of the <b>PROJECT MANAGER</b> Nominated Sub-Contractors are to be made liable for the cost of any storage accommodation provided especially for their use.</p>
<b>Q.</b>	<p><b>SAMPLES</b></p> <p>The Contractor shall furnish at his own cost any samples of materials or workmanship including concrete test cubes required for the works that may be called for by the <b>PROJECT MANAGER</b> for his approval until such samples are approved by the <b>PROJECT MANAGER</b> and the <b>PROJECT MANAGER</b>, may reject any materials or workmanship not in his opinion to be up to approved samples. The <b>PROJECT MANAGER</b> shall arrange for the testing of such materials as he may at his discretion deem desirable, but the testing shall be made at the expense of the Contractor and not at the expense of the <b>PROJECT MANAGER</b>. The Contractor shall pay for the testing in accordance with the current scale of testing charges laid down by the Ministry of Roads, Housing and Public Works</p>

## Section V. Requirements

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	<p>The procedure for submitting samples of materials for testing and the method of marking for identification shall be as laid down by the <b>PROJECT MANAGER</b>. The Contractor shall allow in his tender for such samples and tests except those in connection with nominated sub- contractors' work.</p>
<b>R.</b>	<p><b>GOVERNMENT ACTS REGARDING WORK PEOPLE ETC.</b></p> <p>Allow for complying with all Government Acts, Orders and Regulations in connection with the employment of Labour and other matters related to the execution of the works. In particular the Contractor's attention is drawn to the provisions of the Factory Act 1950 and his tender must include for all costs arising or resulting from compliance with any Act, Order or Regulation relating to Insurances, pensions and holidays for workpeople or so the safety, health and welfare of the workpeople.</p> <p>The Contractor must make himself fully acquainted with current Acts and Regulations, including Police Regulations regarding the movement, housing, security and control of labour, labour camps, passes for transport, etc. It is most important that the Contractor, before tendering, shall obtain from the relevant Authority the fullest information regarding all such regulations and/or restrictions which may affect the organization of the works, supply and control of labour, etc., and allow accordingly in his tender. No claim in respect of want of knowledge in this connection will be entertained.</p>
<b>S.</b>	<p><b>SECURITY OF WORKS ETC.</b></p> <p>The Contractor shall be entirely responsible for the security of all the works stores, materials, plant, personnel, etc., both his own and sub- contractors' and must provide all necessary watching, lighting and other precautions as necessary to ensure security against theft, loss or damage and the protection of the public.</p>
<b>T.</b>	<p><b>PUBLIC AND PRIVATE ROADS.</b></p> <p>Maintain as required throughout the execution of the works and make good any damage to public or private roads arising from or consequent upon the execution of the works to the satisfaction of the local and other competent</p>

	authority and the <b>PROJECT MANAGER</b>
<b>U.</b>	<b>EXISTING PROPERTY.</b>  The Contractor shall take every precaution to avoid damage to all existing property including roads, cables, drains and other services and he will be held responsible for and shall make good all such damage arising from the execution of this contract at his own expense to the satisfaction of the <b>PROJECT MANAGER</b>
<b>V.</b>	<b>VISIT SITE AND EXAMINE DRAWINGS.</b>  The Contractor is recommended to examine the drawings and visit the site the location of which is described in the Particular Preliminaries hereof. He shall be deemed to have acquainted himself therewith as to its nature, position, means of access or any other matter which, may affect his tender. No claim arising from his failure to comply with this recommendation will be considered.
<b>W.</b>	<b>ACCESS TO SITE AND TEMPORARY ROADS.</b>  Means of access to the Site shall be agreed with the <b>PROJECT MANAGER</b> prior to commencement of the work and Contractor must allow for building any necessary temporary access roads for the transport of the materials, plant and workmen as may be required for the complete execution of the works including the provision of temporary culverts, crossings, bridges, or any other means of gaining access to the Site. Upon completion of the works, the Contractor shall remove such temporary access roads; temporary culverts, bridges, etc., and make good and reinstate all works and surfaces disturbed to the satisfaction of the <b>PROJECT MANAGER</b> The Contractor should also allow for relocating existing fence (approx. 30 metres long).
<b>X.</b>	<b>AREA TO BE OCCUPIED BY THE CONTRACTOR</b>  The area of the site which may be occupied by the Contractor for use of storage and for the purpose of erecting workshops, etc., shall be defined on site by the <b>PROJECT MANAGER</b> .

Y.	<p><b>OFFICE ETC. FOR THE PROJECT MANAGER</b></p> <p>The Contractor shall provide, erect and maintain where directed on site and afterwards dismantle the site office of the standard type, complete with furniture. He shall also provide a strong metal trunk complete with strong hasp and staple fastening and two keys. He shall provide, erect and maintain a lock-up type water or bucket closet for the sole use of the <b>PROJECT MANAGER</b> including making temporary connections to the drain where applicable to the satisfaction of Government and Medical Officer of Health and shall provide services of cleaner and pay all conservancy charges and keep both office and closet in a clean and sanitary condition from commencement to the completion of the works and dismantle and make good disturbed surfaces. The office and closet shall be completed before the Contractor is permitted to commence the works. The Contractor shall make available on the Site as and when required by the "<b>PROJECT MANAGER</b>" a modern and accurate level together with leveling staff, ranging rods and 50 metre metallic or linen tape</p>
Z.	<p><b>WATER AND ELECTRICITY SUPPLY FOR THE WORKS</b></p> <p>The Contractor shall provide at his own risk and cost all necessary water, electric light and power required for use in the works. The Contractor must make his own arrangements for connection to the nearest suitable water main and for metering the water used. He must also provide temporary tanks and meters as required at his own cost and clear away when no longer required and make good on completion to the entire satisfaction of the <b>PROJECT MANAGER</b>. The Contractor shall pay all charges in connection herewith. No guarantee is given or implied that sufficient water will be available from mains and the Contractor must make his own arrangements for augmenting this supply at his own cost. Nominated Sub--contractors are to be made liable for the cost of any water or electric current used and for any installation provided especially for their own use.</p>
AA.	<p><b>SANITATION OF THE WORKS</b></p> <p>The Sanitation of the works shall be arranged and maintained by the Contractor to the satisfaction of the Government and/or Local Authorities, Labour</p>

	Department and the <b>PROJECT MANAGER</b> .
<b>BB.</b>	<b>SUPERVISION AND WORKING HOURS</b>  The works shall be executed under the direction and to the entire satisfaction in all respects of the <b>PROJECT MANAGER</b> who shall at all times during normal working hours have access to the works and to the yards and workshops of the Contractor and sub-Contractors or other places where work is being prepared for the contract.
<b>CC.</b>	<b>PROVISIONAL SUMS</b>  The term "Provisional Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7(i) of the Standard Method of Measurement. Such sums are net and no addition shall be made to them for profit.
<b>DD.</b>	<b>PRIME COST (OR P.C.) SUMS.</b>  The term "Prime Cost Sum" or "P.C. Sum" wherever used in these Bills of Quantities shall have the meaning stated in Section A item A7 (ii) of the Standard Method of Measurement. Persons or firms nominated by the <b>PROJECT MANAGER</b> to execute work or to provide and fix materials or goods are described herein as Nominated Sub-Contractors. Persons or firms so nominated to supply goods or materials are described herein as Nominated Suppliers.
<b>EE.</b>	<b>PROGRESS CHART.</b>  The Contractor shall provide within two weeks of Possession of Site and in agreement with the <b>PROJECT MANAGER</b> a Progress Chart for the whole of the works including the works of Nominated Sub-Contractors; one copy to be handed to the <b>PROJECT MANAGER</b> and a further copy to be retained on Site. Progress to be recorded and chart to be amended as necessary as the work proceeds.
<b>FF.</b>	<b>ADJUSTMENT OF P.C. SUMS.</b>  In the final account all P.C. Sums shall be deducted and the amount properly

	expended upon the <b>PROJECT MANAGER'S</b> order in respect of each of them added to the Contract sum. The Contractor shall produce to the <b>PROJECT MANAGER</b> such quotations, invoices or bills, properly receipted, as may be necessary to show the actual details of the sums paid by the Contractor. Items of profit upon P.C. Sums shall be adjusted in the final account pro-rata to the amount paid. Items of "attendance
<b>GG.</b>	<b>ADJUSTMENT OF P.C. SUMS. Ctd.....</b>  Should the Contractor be permitted to tender and his tender be accepted of any work for which a P.C. Sum is included in these Bill of Quantities profit and attendance will be allowed at the same rate as it would be if the work were executed by a Nominated Sub-Contractor.
<b>HH.</b>	<b>ADJUSTMENT OF PROVISIONAL SUMS</b>  In the final account all Provisional Sums shall be deducted and the value of the work properly executed in respect of them upon the <b>PROJECT MANAGER's</b> order added to the Contract Sum. Such work shall be valued as described for Variations, but should any part of the work be executed by a Nominated Sub-Contractor, the value of such work or articles for the work to be supplied by a Nominated Supplier, the value of such work or articles shall be treated as a P.C. Sum and profit and attendance comparable to that contained in the priced Bills of Quantities for similar items added.
<b>II.</b>	<b>NOMINATED SUB-CONTRACTORS</b>  When any work is ordered by the <b>PROJECT MANAGER</b> to be executed by nominated sub-contractors, the Contractor shall enter into sub- contracts and shall thereafter be responsible for such sub-contractors in every respect. Unless otherwise described the Contractor is to provide for such Sub-Contractors any or all of the facilities described in these Preliminaries. The Contractor should price for these with the nominated Sub-contract Contractor's work concerned in the P.C. Sums under the description "add for Attendance".
<b>JJ.</b>	<b>DIRECT CONTRACTS</b>  Notwithstanding the foregoing conditions, the Government reserves the right

	<p>to place a "Direct Contract" for any goods or services required in the works which are covered by a P.C. Sum in the Bills of Quantities and to pay for the same direct. In any such instances, profit relative to the P.C. Sum the priced Bills of Quantities will be adjusted as described for P.C. Sums and allowed.</p>
<b>KK.</b>	<p><b>ATTENDANCE UPON OTHER TRADESMEN, ETC.</b></p> <p>The Contractor shall allow for the attendance of trade upon trade and shall afford any tradesmen or other persons employed for the execution of any work not included in this Contract every facility for carrying out their work and also for use of his ordinary scaffolding. The Contractor, however, shall not be required to erect any special scaffolding for them. The Contractor shall perform such cutting away for and making good after the work of such tradesmen or persons as may be ordered by the <b>PROJECT MANAGER</b> and the work will be measured and paid for to the extent executed at rates provided in these Bills.</p>
<b>LL.</b>	<p><b>INSURANCE</b></p> <p>The Contractor shall insure as required in the Conditions of Contract. No payment on account of the work executed will be made to the Contractor until he has satisfied the <b>PROJECT MANAGER</b> either by production of an Insurance Policy or and Insurance Certificate that the provision of the foregoing Insurance Clauses have been complied with in all respects. Thereafter the <b>PROJECT MANAGER</b> shall from time to time ascertain that premiums are duly paid up by the Contractor who shall if called upon to do so, produce the received premium renewals for the <b>PROJECT MANAGER's</b> inspection.</p>
<b>MM.</b>	<p><b>PROVISIONAL WORK</b></p> <p>All work described as "Provisional" in these Bills of Quantities is subject to remeasurement in order to ascertain the actual quantity executed for which payment will be made. All "Provisional" and other work liable to adjustment under this Contract shall be left uncovered for a reasonable time to allow all measurements needed for such adjustment to be taken by the <b>PROJECT MANAGER</b>. Immediately the work is ready for measuring, the Contractor shall give notice to the <b>PROJECT MANAGER</b>. If the Contractor makes default in these respects he shall if the <b>PROJECT MANAGER</b> so directs uncover the</p>

	work to enable all measurements to be taken and afterwards reinstate at his own expense
<b>NN.</b>	<b>ALTERATIONS TO BILLS, PRICING, ETC.</b>  Any unauthorized alteration or qualification made to the text of the Bills of Quantities may cause the Tender to be disqualified and will in any case be ignored. The Contractor shall be deemed to have made allowance in his prices generally to cover any items against which no price has been inserted in the priced Bills of Quantities. All items of measured work shall be priced in detail and the Tenders containing Lump Sums to cover trades or groups of work must be broken down to show the price of each item before they will be accepted.
<b>OO.</b>	<b>BLASTING OPERATIONS</b>  Blasting will only be allowed with the express permission of the <b>PROJECT MANAGER</b> in writing. All blasting operations shall be carried out at the Contractor's sole risk and cost in accordance with any Government regulations in force for the time being, and any special regulations laid down by the <b>PROJECT MANAGER</b> governing the use and storage of explosives.
<b>PP.</b>	<b>MATERIALS ARISING FROM EXCAVATIONS</b>  Materials of any kind obtained from the excavations shall be the property of the Government. Unless the <b>PROJECT MANAGER</b> directs otherwise such materials shall be dealt with as provided in the Contract. Such materials shall only be used in the works, in substitution of materials which the Contractor would otherwise have had to supply with the written permission of the <b>PROJECT MANAGER</b> . Should such permission be given, the Contractor shall make due allowance for the value of the materials so used at a price to be agreed.
<b>QQ.</b>	<b>PROTECTION OF THE WORKS.</b>  Provide protection of the whole of the works contained in the Bills of Quantities, including casing, casing up, covering or such other means as may be necessary to avoid damage to the satisfaction of the <b>PROJECT MANAGER</b> and remove such protection when no longer required and make good any damage which

## Section V. Requirements

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	may nevertheless have been done at completion free of cost to the Government.
<b>RR.</b>	<b>REMOVAL OF RUBBISH ETC.</b>  Removal of rubbish and debris from the buildings and site as it accumulates and at the completion of the works and remove all plant, scaffolding and unused materials at completion
<b>SS.</b>	<b>WORKS TO BE DELIVERED UP CLEAN</b>  Clean and flush all gutters, rainwater and waste pipes, manholes and drains, wash (except where such treatment might cause damage) and clean all floors, sanitary fittings, glass inside and outside and any other parts of the works and remove all marks, blemishes, stains and defects from joinery, fittings and decorated surfaces generally, polish door furniture and bright parts of metalwork and leave the whole of the buildings watertight, clean, perfect and fit for occupation to the approval of the <b>PROJECT MANAGER</b>
<b>TT.</b>	<b>GENERAL SPECIFICATION.</b>  For the full description of materials and workmanship, method of execution of the work and notes for pricing, the Contractor is referred to the Ministry of Roads, Public Works and Housing General Specification dated 1976 or any subsequent revision thereof which is issued as a separate document, and which shall be allowed in all respects unless it conflicts with the General Preliminaries, Trade Preambles or other items in these Bills of Quantities.
<b>UU.</b>	<b>HOARDING</b>  The Contractor shall enclose all the site under construction with a hoarding 2400 mm high consisting of iron sheets gauge 30 on 100 x 50 mm 2nd grade treated sawn cypress timber posts firmly secured at 1800 mm centres with two 75 x 50 mm 2nd grade treated sawn cypress timber rails. The Contractor is in addition required to take all precautions necessary for the safe custody of the works, materials, plant, public and Employer's property on the site.

**VV.**

**CONTRACTOR'S SUPERINTENDENCE/SITE AGENT**

The Contractor shall constantly keep on the works a literate English-speaking Agent or Representative, competent and experienced in the kind of work involved who shall give his whole experience in the kind of work involved and shall give his whole time to the superintendence of the works. Such Agent or Representative shall receive on behalf of the Contractor all directions and instructions from the Project Manager and such directions shall be deemed to have been given to the Contractor in accordance with the Conditions of Contract

## **Drawings**

All the necessary drawings are as provided

**Supplementary Information**

### **3.0 PART 3: CONDITIONS OF CONTRACT AND CONTRACT FORMS**

#### **3.1 Section VI. General Conditions (GC)**

These **General Conditions (GC)**, read in conjunction with the **Particular Conditions (PC)** and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

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## **Section VII. General Conditions**

[Name of Employer] .....

[Name of Contract] .....

**A General**

**1 Definitions**

1.1 Bold face type is used to identify defined terms.

- a) **The Accepted Contract Amount** means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.
- b) **The Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.
- c) **The Adjudicator** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.
- d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
- e) **Compensation Events** are those defined in GCC Clause 42 hereunder.
- f) **The Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 53.1.
- g) **The Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.
- h) **The Contractor** is the party whose Bid to carry out the Works has been accepted by the Procuring Entity.
- i) **The Contractor's Bid** is the completed bidding document submitted by the Contractor to the Procuring Entity.
- j) **The Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.
- k) **Days** are calendar days; months are calendar months.
- l) **Day works** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- m) **A Defect** is any part of the Works not completed in accordance with the Contract.
- n) **The Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.
- o) **The Defects Liability Period** is the period **named in the SCC** pursuant to Sub-Clause 34.1 and calculated from the Completion Date.

- p) **Drawings** means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- q) **The Procuring Entity** is the party who employs the Contractor to carry out the Works, **as specified in the SCC**, who is also the Procuring Entity.
- r) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- s) "**In writing**" or "**written**" means hand-written, type-written, printed or electronically made, and resulting in a permanent record;
- t) The Initial Contract Price is the Contract Price listed in the Procuring Entity's Letter of Acceptance.
- u) **The Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is **specified in the SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- v) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- w) **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- x) **The Project Manager** is the person **named in the SCC** (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- y) **SCC** means Special Conditions of Contract.
- z) **The Site** is the area of the works **as defined as such in the SCC**.
- aa) **Site Investigation Reports** are those that were included in the bidding document and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- bb) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- cc) **The Start Date** is **given in the SCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- dd) **A Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- ee) **Temporary Works** are works designed, constructed, installed, and removed

## Section VI. General Conditions (GC)

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by the Contractor that are needed for construction or installation of the Works.

- ff) **A Variation** is an instruction given by the Project Manager which varies the Works.
- gg) **The Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, **as defined in the SCC**.

### 2 Interpretation

- 2.1 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- 2.2 If sectional completion is specified in the SCC, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the following order of priority:
  - a) Agreement,
  - b) Letter of Acceptance,
  - c) Contractor's Bid,
  - d) Special Conditions of Contract,
  - e) General Conditions of Contract, including Appendices,
  - f) Specifications,
  - g) Drawings,
  - h) Bill of Quantities<sup>6</sup>, and
  - i) any other document listed in the SCC as forming part of the Contract.
  - j) <sup>6</sup>In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."

### 3 Language and Law

- 3.1 The language of the Contract is English Language and the law governing the Contract are the Laws of Kenya.
- 3.2 Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in the Procuring Entity's Country when
  - a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
  - b) by an act of compliance with a decision of the United Nations

## Section VI. General Conditions (GC)

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Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

### 4 Project Manager's Decisions

4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.

### 5 Delegation

5.1 Otherwise **specified in the SCC**, the Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may revoke any delegation after notifying the Contractor.

### 6 Communications

6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.

### 7 Subcontracting

7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Procuring Entity in writing. Subcontracting shall not alter the Contractor's obligations.

### 8 Other Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, **as referred to in the SCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

**9        Personnel and Equipment**

9.1      The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.

9.2      If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

9.3      If the Procuring Entity, Project Manager or Contractor determines, that any employee of the Contractor be determined to have engaged in Fraud and Corruption during the execution of the Works, then that employee shall be removed in accordance with Clause 9.2 above.

**10        Procuring Entity's and Contractor's Risks**

10.1     The Procuring Entity carries the risks which this Contract states are Procuring Entity's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

**11        Procuring Entity's Risks**

11.1     From the Start Date until the Defects Liability Certificate has been issued, the following are Procuring Entity's risks:

- a)      The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to
  - i)      use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
  - ii)     negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.
- b)      The risk of damage to the Works, Plant, Materials, and Equipment

to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Procuring Entity's risk except loss or damage due to

- a Defect which existed on the Completion Date,
- an event occurring before the Completion Date, which was not itself a Procuring Entity's risk, or
- the activities of the Contractor on the Site after the Completion Date.

### **12 Contractor's Risks**

12.1 From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Procuring Entity's risks are Contractor's risks.

### **13 Insurance**

13.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the SCC** for the following events which are due to the Contractor's risks:

- loss of or damage to the Works, Plant, and Materials;
- loss of or damage to Equipment;
- loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

## Section VI. General Conditions (GC)

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- 13.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.

### **14 Site Data**

- 14.1 The Contractor shall be deemed to have examined any Site Data **referred to in the SCC**, supplemented by any information available to the Contractor.

### **15 Contractor to Construct the Works**

- 15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

### **16 The Works to Be Completed by the Intended Completion Date**

- 16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

### **17 Approval by the Project Manager**

- 17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.
- 17.2 The Contractor shall be responsible for design of Temporary Works.
- 17.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 17.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 17.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.

### **18 Safety**

- 18.1 The Contractor shall be responsible for the safety of all activities on the Site.

### **19 Discoveries**

19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

**20 Possession of the Site**

20.1 The Procuring Entity shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date **stated in the SCC**, the Procuring Entity shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

**21 Access to the Site**

21.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

**22 Instructions, Inspections and Audits**

22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.

22.2 The Contractor shall keep, and shall make all reasonable efforts to cause its Subcontractors and sub-consultants to keep, accurate and systematic accounts and records in respect of the Works in such form and details as will clearly identify relevant time changes and costs.

22.3 The Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Procuring Entity and/or persons appointed by the Public Procurement Regulatory Authority to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Public Procurement Regulatory Authority. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 25.1 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Public Procurement Regulatory Authority's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Public Procurement Regulatory Authority's prevailing sanctions procedures).

**23 Appointment of the Adjudicator**

- 23.1 The Adjudicator shall be appointed jointly by the Procuring Entity and the Contractor, at the time of the Procuring Entity's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the Procuring Entity does not agree on the appointment of the Adjudicator, the Procuring Entity will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 14 days of receipt of such request.
- 23.2 Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.

### **24 Settlement of Claims and Disputes**

- 24.1 Contractor's Claims
  - 24.1.1 If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give Notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 30 days after the Contractor became aware, or should have become aware, of the event or circumstance.
  - 24.1.2 If the Contractor fails to give notice of a claim within such period of 30 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub- Clause shall apply.
  - 24.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
  - 24.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

## Section VI. General Conditions (GC)

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24.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

- a) this fully detailed claim shall be considered as interim;
- b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
- c) the Contractor shall send a final claim within 30 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

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- 24.1.6 Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.
- 24.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause
- 24.1.8 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
- 24.1.9 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 24.1.10 If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 24.4 [Arbitration].
- 24.1.11 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause 24.3.

### 24.2 Amicable Settlement

- 24.2.1 Where a notice of a claim has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a notice of a claim in accordance with Sub-Clause 24.1 above should move to commence arbitration after the fifty-sixth day from the day on which a notice of a claim was given, even if no attempt at an amicable settlement has been made.

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### 24.3 Matters that may be referred to arbitration

24.3.1 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:

- a) The appointment of a replacement Project Manager upon the said person ceasing to act.
- b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
- c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- d) Any dispute arising in respect of war risks or war damage.
- e) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

## Section VI. General Conditions (GC)

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### 24.4 Arbitration

- 24.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 24.3 shall be finally settled by arbitration.
- 24.4.2 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 24.4.3 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 24.4.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
- 24.4.5 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
- 24.4.6 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
- 24.4.7 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.
- 24.4.8 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the Works.
- 24.4.9 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

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### 24.5 Arbitration with National Contractors

24.5.1 If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

- a) Architectural Association of Kenya
- b) Institute of Quantity Surveyors of Kenya
- c) Association of Consulting Engineers of Kenya
- d) Chartered Institute of Arbitrators (Kenya Branch)
- e) Institution of Engineers of Kenya

24.5.2 The institution written to first by the aggrieved party shall take precedence over all other institutions.

### 24.6 Alternative Arbitration Proceedings

24.6.1 Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

### 24.7 Failure to Comply with Arbitrator's Decision

24.7.1 The award of such Arbitrator shall be final and binding upon the parties.

24.7.2 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

### 24.8 Contract operations to continue

24.8.1 Notwithstanding any reference to arbitration herein,

- a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- b) the Procuring Entity shall pay the Contractor any monies due the Contractor.

**25 Fraud and Corruption**

- 25.1 The Government requires compliance with the country's Anti-Corruption laws and its prevailing sanctions policies and procedures as set forth in the Constitution of Kenya and its Statutes.
- 25.2 The Procuring Entity requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

**B Time Control**

**26 Program**

- 26.1 Within the time stated in the SCC, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.
- 26.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 26.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.
- 26.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

**27 Extension of the Intended Completion Date**

- 27.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 27.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

**28      Acceleration**

- 28.1 When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.
- 28.2 If the Contractor's priced proposals for an acceleration are accepted by the Procuring Entity, they are incorporated in the Contract Price and treated as a Variation.

**29      Delays Ordered by the Project Manager**

- 29.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

**30      Management Meetings**

- 30.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 30.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

**31      Early Warning**

- 31.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 31.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

### **C      Quality Control**

#### **32      Identifying Defects**

- 32.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

#### **33      Tests**

- 33.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

#### **34      Correction of Defects**

- 34.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 34.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

#### **35      Uncorrected Defects**

- 35.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

### **D      Cost Control**

**36 Contract Price<sup>5</sup>**

36.1 The Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

**37 Changes in the Contract Price<sup>6</sup>**

37.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change. The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.

37.2 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

**38 Variations**

38.1 All Variations shall be included in updated Programs<sup>7</sup> produced by the Contractor.

38.2 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

38.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

38.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

38.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning

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<sup>5</sup> In lump sum contracts, replace GCC Sub-Clauses 36.1 as follows:

36.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for materials on site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

<sup>6</sup> In lump sum contracts, replace entire GCC Clause 37 with new GCC Sub-Clause 37.1, as follows:

The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

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38.6 If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 39.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work

38.7 Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following:

- the proposed change(s), and a description of the difference to the existing contract requirements;
- a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and
- a description of any effect(s) of the change on performance/functionality.

38.8 The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

- accelerate the contract completion period; or
- reduce the Contract Price or the life cycle costs to the Procuring Entity; or
- improve the quality, efficiency, safety or sustainability of the Facilities; or
- yield any other benefits to the Procuring Entity, without compromising the functionality of the Works.

38.9 If the value engineering proposal is approved by the Procuring Entity and results in:

- a reduction of the Contract Price; the amount to be paid to the Contractor shall be the percentage specified in the SCC of the reduction in the Contract Price; or
- an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Contractor shall be the full increase in the Contract Price.

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<sup>7</sup> In lump sum contracts, add "and Activity Schedules" after "Programs." <sup>10</sup>In lump sum contracts, delete this paragraph.

**39 Cash Flow Forecasts**

39.1 When the Program<sup>8</sup>, is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

**40 Payment Certificates**

40.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

40.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

40.3 The value of work executed shall be determined by the Project Manager.

40.4 The value of work executed shall comprise the value of the quantities of work in the Bill of Quantities that have been completed<sup>9</sup>.

40.5 The value of work executed shall include the valuation of Variations and Compensation Events.

40.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

40.7 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (which would be the tender price), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: (corrected tender price – tender price)/tender price X 100.

**41 Payments**

41.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

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- 41.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 41.3 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.
- 41.4 Items of the Works for which no rate or price has been entered in shall not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

## 42 Compensation Events

- 42.1 The following shall be Compensation Events:
  - a) The Procuring Entity does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.
  - b) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
  - c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
  - d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
  - e) The Project Manager unreasonably does not approve a subcontract to be let.
  - f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
  - g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons.
  - h) Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
  - i) The advance payment is delayed.
  - j) The effects on the Contractor of any of the Procuring Entity's Risks.
  - k) The Project Manager unreasonably delays issuing a Certificate of Completion.

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<sup>8</sup> In lump sum contracts, add "or Activity Schedule" after "Program."

<sup>9</sup> In lump sum contracts, replace this paragraph with the following: "The value of work executed shall comprise the value of completed activities in the Activity Schedule."

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- 42.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 42.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.
- 42.4 The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

### **43 Tax**

- 43.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 30 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 44.

### **44 Currency of Payment**

- 44.1 All payments under the contract shall be made in Kenya Shillings

### **45 Price Adjustment**

- 45.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type specified below applies:

$$P = A + B Im/Io$$

where:

P is the

adjustment factor for the portion of the Contract Price payable.

A and B are coefficients<sup>10</sup> **specified in the SCC**, representing the non-adjustable

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<sup>10</sup> The sum of the two coefficients A and B should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the non-adjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other non-adjustable components. The sum of the adjustments for each currency are added to the Contract Price.

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and adjustable portions, respectively, of the Contract Price payable and  $I_m$  is the index prevailing at the end of the month being invoiced and  $IOC$  is the index prevailing 30 days before Bid opening for inputs payable.

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45.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

### **46      Retention**

46.1 The Procuring Entity shall retain from each payment due to the Contractor the proportion stated in the SCC until Completion of the whole of the Works.

46.2 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 53.1, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected. The Contractor may substitute retention money with an "on demand" Bank guarantee.

### **47      Liquidated Damages**

47.1 The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

47.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC Sub-Clause 41.1.

### **48      Bonus**

48.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.

### **49      Advance Payment**

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- 49.1 The Procuring Entity shall make advance payment to the Contractor of the amounts stated in the SCC by the date stated in the SCC, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.
- 49.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 49.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

### **50      Securities**

- 50.1 The Performance Security shall be provided to the Procuring Entity no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the SCC**, by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 day from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.

### **51      Dayworks**

- 51.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 51.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 51.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

### **52      Cost of Repairs**

52.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

**E Finishing the Contract**

**53 Completion**

53.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

**54 Taking Over**

54.1 The Procuring Entity shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

**55 Final Account**

55.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

**56 Operating and Maintenance Manuals**

56.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.

56.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC pursuant to GCC Sub-Clause 56.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount **stated in the SCC** from payments due to the Contractor.

**57 Termination**

57.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

57.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

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- a) the Contractor stops work for 30 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
- b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 30 days;
- c) the Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- d) a payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days of the date of the Project Manager's certificate;
- e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- f) the Contractor does not maintain a Security, which is required;
- g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, **as defined in the SCC**; or
- h) if the Contractor, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2 a of the Appendix A to the GCC, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) days written notice to the Contractor, terminate the Contract and expel him from the Site.

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- 57.3 Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.
- 57.4 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.
- 57.5 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.

### **58 Payment upon Termination**

- 58.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as specified in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.
- 58.2 If the Contract is terminated for the Procuring Entity's convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

### **59 Property**

- 59.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor's default.

### **60 Release from Performance**

- 60.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

### 3.2 Section VII. Particular Conditions

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>A. General</b>	
<b>GCC 1.1 (q)</b>	The Procuring Entity is <b>Principal Secretary, State Department for Agriculture, Ministry of Agriculture and Livestock Development</b>
<b>GCC 1.1 (u)</b>	The Intended Completion Date for the whole of the Works shall be <b>twelve (12) months after commencement of works.</b>
<b>GCC 1.1 (x)</b>	The Project Manager is <b>Engineering Secretary, Kilimo House, 5<sup>th</sup> Floor</b>
<b>GCC 1.1 (z)</b>	The Site is located in <b>Bulla Cadey in Garissa Township Constituency, Garissa County</b>
<b>GCC 1.1 (cc)</b>	The Start Date shall be <b>not later than 14 days after site handing over</b>
<b>GCC 1.1 (gg)</b>	<p><b>Description of the works</b></p> <p>The contract works include:</p> <ul style="list-style-type: none"> <li>◆ <b>Intake Works</b></li> <li>◆ <b>Conveyance</b></li> <li>◆ <b>Masonry tanks</b></li> <li>◆ <b>Pump House</b></li> <li>◆ <b>B. Pump &amp; Accessories</b></li> </ul> <p>Note: All the above works should be as per the attached Drawings and Bills of Quantities (BoQs).</p>
<b>GCC 2.2</b>	Sectional Completions are: <b>N/A</b>
<b>GCC 5.1</b>	The Project Manager <b>[may or may not]</b> delegate any of his duties and responsibilities.
<b>GCC 6.1</b>	The Electronic Transmission System is: <b>None</b>
<b>GCC 6.1</b>	<p>The Employer's address for the purpose of communications is:</p> <p><b>Principal Secretary State Department for Agriculture Kilimo House, Cathedral Road P.O. Box 300028 - 00100 Nairobi, Kenya Tel: + 254-20-2718870/9 Fax: + 254-20-2711149 E-mail: <a href="mailto:psagriculture@kilimo.go.ke">psagriculture@kilimo.go.ke</a></b></p>

Section VII. Particular Conditions (PC)

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	The Contractor's address for the purpose of communications is: <b>[state full address, telephone, fax and e-mail]</b>
<b>GCC 8.1</b>	Schedule of other contractors: <b>N/A</b>
<b>GCC 9.1</b>	<p><b>Key Personnel</b></p> <p>GCC 9.1 is replaced with the following:</p> <p>9.1 Key Personnel are the Contractor's personnel named in this GCC 9.1 of the Special Conditions of Contract. The Contractor shall employ the Key Personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of Key Personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.</p> <p>[insert the name/s of each Key Personnel agreed by the Procuring Entity prior to Contract signature.]</p>
<b>GCC 13.1</b>	<p>The minimum insurance amounts and deductibles shall be:</p> <ul style="list-style-type: none"> <li>(a). for loss or damage to the Works, Plant and Materials: <b>KES 100,000.00</b></li> <li>(b). For loss or damage to Equipment: <b>KES 50,000.00</b></li> <li>(c). for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract <b>KES 50,000.00</b></li> <li>(d). for personal injury or death: <ul style="list-style-type: none"> <li>(i) of the Contractor's employees: <b>KES 50,000.00</b></li> <li>(ii) of other people: <b>KES 100,000.00</b></li> </ul> </li> </ul>
<b>GCC 14.1</b>	Site Data are: <b>design report, drawings and any other investigation as may be required by the engineer</b>
<b>GCC 20.1</b>	The Site Possession Date(s) shall be: <b>not later than 14 days after contract signing</b>
<b>GCC 23.1 &amp; GCC 23.2</b>	<p>Appointing Authority for the Adjudicator:</p> <p><b>Chartered Institute of Arbitrators, Kenya</b>  <b>P.O. Box 50163 - 00200</b>  <b>Nairobi, Kenya</b></p> <p>Email Address: <a href="mailto:info@ciarbkenya.org">info@ciarbkenya.org</a></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: as per as body's policy
<b>B. Time Control</b>	
<b>GCC 26.1</b>	The Contractor shall submit for approval a Program for the Works within <b>7</b> days from the date of the Letter of Acceptance.
<b>GCC 26.3</b>	The period between Programme updates is 30 days. The amount to be withheld for late submission of an updated Programme is: <b>10% of amount due in next certificate</b>
<b>C. Quality Control</b>	
<b>GCC 34.1</b>	The Contract Period is: <b>360 Days (12 Months)</b> The Defects Liability Period is <b>180 Days (6 Months)</b>
<b>D. Cost Control</b>	
<b>GCC 38.9</b>	If the value engineering proposal is approved by the Procuring Entity the amount to be paid to the Contractor shall be <b>N/A</b> % of the reduction in the Contract Price.
<b>GCC 44.1</b>	The currency of the Procuring Entity's Country is: <b>Kenya Shillings</b>
<b>GCC 45.1</b>	The Contract " <b>is not</b> " subject to price adjustment in accordance with GCC Clause 45, and the following information regarding coefficients [specify "does" or "does not"] apply. The coefficients for adjustment of prices are: (a) <b>N/A</b> percent nonadjustable element (coefficient A). (ib) <b>N/A</b> percent adjustable element (coefficient B). (c) The Index I for shall be <b>N/A</b>
<b>GCC 46.1</b>	The proportion of payments retained is: <b>10%</b>
<b>GCC 47.1</b>	The liquidated damages for the whole of the Works are <b>0.05</b> per day. The maximum amount of liquidated damages for the whole of the Works is <b>10</b> of the final Contract Price.
<b>GCC 48.1</b>	The Bonus for the whole of the Works is [insert percentage of final Contract Price] per day. The maximum amount of Bonus for the whole of the Works is <b>0%</b> of the final Contract Price.

Section VII. Particular Conditions (PC)

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>GCC 49.1</b>	The Advance Payments shall be: <b>0%</b> and shall be paid to the Contractor no later than <b>N/A</b>
<b>GCC 50.1</b>	<p>The Performance Security amount is <b>10%</b> of contract sum in the form</p> <p>(a) Performance Security – Bank Guarantee: in the amount(s) of <b>10</b> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.</p> <p>(b) Performance Security – Performance Bond: in the amount(s) of <b>10</b> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.</p>
<b>E. Finishing the Contract</b>	
<b>GCC 56.1</b>	<p>The date by which operating and maintenance manuals are required is <b>date of completion of works</b></p> <p>The date by which "as built" drawings are required is <b>date of completion of works</b></p>
<b>GCC 56.2</b>	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required in GCC 58.1 is <b>KES 100,000.00</b>
<b>GCC 57.2 (g)</b>	The maximum number of days is: <b>30 days</b>
<b>GCC 58.1</b>	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is <b>100%</b>

### **3.3      Section VIII. Contract Forms**

This Section contains Contract Forms which, once completed, will constitute part of the Contract. The forms for Contract Agreement, Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder, after contract award

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**Letter of Award**

*[letterhead paper of the Procuring Entity] [date]*

To: *[name and address of the Contractor]*

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words]* *[name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by ..... (*name of Procuring Entity*).

You are requested to furnish the Performance Security within ..... (*Insert Number of Days*) ..... days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Procuring Entity .....

Attachment: Contract Agreement .....

## **Contract Agreement**

THIS AGREEMENT made the ..... day of ..... , 20, ..... between ..... of (hereinafter "the Procuring Entity"), of the one part, and ..... of ..... (hereinafter "the Contractor"), of the other part:

WHEREAS the Procuring Entity desires that the Works known as \_\_\_\_\_ should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The Procuring Entity and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - a) the Letter of Acceptance
  - b) the Letter of Tender
  - c) the addenda Nos \_\_\_\_\_(if any)
  - d) the Special Conditions of Contract
  - e) the General Conditions of Contract;
  - f) the Specifications
  - g) the Drawings; and
  - h) the completed Schedules and any other documents forming part of the contract.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as specified in this Agreement, the Contractor hereby covenants with the Procuring Entity to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

## Section VIII. Contract Forms

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IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the Laws of Kenya on the day, month and year specified above.

Signed and sealed by..... (for the Procuring Entity)

Signed and sealed by..... (for the Contractor).

## Performance Security

### Option I: Unconditional Demand Bank Guarantee]

[Guarantor letterhead]

**Beneficiary:** ..... [insert name and Address of Procuring Entity]

**Date:** ..... [Insert date of issue]

**Guarantor:** [Insert name and address of place of issue, unless indicated in the letterhead]

1. We have been informed that ..... (hereinafter called "the Contractor") has entered into Contract No. .... dated ..... with (name of Procuring Entity) ..... (the Procuring Entity as the Beneficiary), for the execution of ..... (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of .....  
(in words),<sup>11</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.
4. This guarantee shall expire, no later than the .... Day of ..... , 2....<sup>12</sup>, and any

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<sup>11</sup> The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency of the Contract or a freely convertible currency acceptable to the Beneficiary.

<sup>12</sup> Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor.

## Section VIII. Contract Forms

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demand for payment under it must be received by us at the office indicated above on or before that date.

5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

*[Name of Authorized Official, signature(s) and seals/stamps].*

**Note:** All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

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*Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

## **Option II: Performance Bond**

*[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]*

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** ..... *[insert name and Address of Procuring Entity]*

**Date:** ..... *[Insert date of issue].*

**PERFORMANCE BOND No.:** .....

**Guarantor:** ..... *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond as ..... Principal (hereinafter called "the Contractor") and ..... as Surety (hereinafter called "the Surety"), are held and firmly bound unto ..... ] as Obligee (hereinafter called "the Procuring Entity") in the amount of ..... for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the ..... day of ..... , 20...., for ..... in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity's obligations thereunder,

the Surety may promptly remedy the default, or shall promptly:

- 1) complete the Contract in accordance with its terms and conditions; or
- 2) obtain a tender or tenders from qualified tenderers for submission to the Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Procuring Entity and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Procuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
- 3) pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named herein or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.
6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day .... of

..... 20 .....

SIGNED ON ..... on behalf of ..... By ..... in the capacity of .... In the presence of ..

## Section VIII. Contract Forms

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SIGNED ON ..... on behalf of ..... By ..... in the capacity of .... In the presence of ...

## Retention Money Security

### [Demand Bank Guarantee]

[Guarantor letterhead]

**Beneficiary:**..... *[Insert name and Address of Procuring Entity]*

**Date:**..... *[Insert date of issue]*

1. We have been informed that..... *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Contractor") has entered into Contract No. .... *[insert reference number of the contract]* dated..... with the Beneficiary, for the execution of..... *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of *[insert the second half of the Retention Money]* is to be made against a Retention Money guarantee.
3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]*..... (*[insert amount in words<sup>13</sup>]*) upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its

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<sup>13</sup> The Guarantor shall insert an amount representing the amount of the second half of the Retention Money.

## Section VIII. Contract Forms

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account number..... at ..... [insert name and address of  
Applicant's bank].

5. This guarantee shall expire no later than the ..... Day of ..... 2.....  
.....<sup>14</sup>, and any demand for payment under it  
must be received by us at the office indicated above on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to  
exceed [six months] [one year], in response to the Beneficiary's written request for  
such extension, such request to be presented to the Guarantor before the expiry of  
the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

*Note: All italicized text (including footnotes) is for use in preparing this form and shall  
be deleted from the final product.*

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*14 Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

**NOTE: ALL ITALICIZED TEXT (INCLUDING FOOTNOTES) IS FOR USE IN  
PREPARING THIS FORM AND SHALL BE DELETED FROM THE FINAL  
PRODUCT.**